

HOUSE JOURNAL

SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-NINTH DAY — TUESDAY, MAY 22, 2001

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 501).

Present — Mr. Speaker; Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Hilbert.

The invocation was offered by Representative Junell.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of illness:

Hilbert on motion of Haggerty.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 62).

CAPITOL PHYSICIAN

The chair recognized Representative Hupp who presented Dr. Ernesto Malaze of Temple as the "Doctor for the Day."

The house welcomed Dr. Malaze and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

HR 1134 - ADOPTED
(by Hunter, Counts, Keffer, Junell, and B. Turner)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1134**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1134, Honoring Judge Billy John Edwards of Abilene on his retirement from the 104th State District Court.

HR 1134 was read and was adopted without objection.

On motion of Representative Junell, the names of all the members of the house were added to **HR 1134** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hunter, who introduced Judge Billy John Edwards and his wife, Rosemary.

HR 1167 - ADOPTED
(by Dutton and Eiland)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1167**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1167, Recognizing June 15-17, 2001, as the Anderson/Smith Reunion Days in Hitchcock.

HR 1167 was adopted without objection.

HR 1129 - ADOPTED
(by Hardcastle)

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 1129**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1129, Congratulating the Vernon High School tennis team on winning the 2001 Texas Tennis Coaches Association Class 3A state championship.

HR 1129 was adopted without objection.

HR 1184 - ADOPTED
(by Brimer)

Representative Brimer moved to suspend all necessary rules to take up and consider at this time **HR 1184**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1184, Honoring the 2001 Mary Orr Intermediate School chess team for winning the Texas State Scholastic Chess Championships.

HR 1184 was read and was adopted without objection.

On motion of Representative J. Jones, the names of all the members of the house were added to **HR 1184** as signers thereof.

HR 949 - ADOPTED
(by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 949**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 949, In memory of Josephine "Joppy" Romero of Kerrville.

HR 949 was read and was unanimously adopted by a rising vote.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 32).

HCR 300 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 300**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 300, Congratulating James O. Hesson of Roxton on his retirement.

HCR 300 was adopted without objection.

HCR 301 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 301**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 301, Honoring Damione Lewis on being the first round draft choice of the St. Louis Rams.

HCR 301 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of a death in the family:

West on motion of B. Turner.

HR 572 - ADOPTED**(by R. Lewis)**

Representative R. Lewis moved to suspend all necessary rules to take up and consider at this time **HR 572**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 572, Congratulating Stephen and Tiffany McKinney and recognizing Grace and Jordan McKinney as honorary Texans.

HR 572 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative R. Lewis, who introduced the McKinney family.

HR 1144 - ADOPTED**(by McClendon and Martinez Fischer)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 1144**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1144, Honoring Fox Tech High School of San Antonio for outstanding accomplishments.

HR 1144 was read and was adopted without objection.

On motion of Representative Martinez Fischer, the names of all the members of the house were added to **HR 1144** as signers thereof.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

HR 1175 - ADOPTED**(by Wise)**

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1175**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1175, Honoring Epitacia Yanez of Donna on the occasion of her 100th birthday.

HR 1175 was adopted without objection.

HCR 297 - ADOPTED**(by Chisum)**

The following privileged resolution was laid before the house:

HCR 297

WHEREAS, **HB 7** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains a technical error that should be corrected; now, therefore, be it

RESOLVED by the 77th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 7** in Section 487.401(b), Government Code, as added by Senate Committee Amendment No. 1, by striking "commission's rules" and substituting "executive committee's rules".

HCR 297 was adopted without objection.

SCR 65 - ADOPTED
(Farabee - House Sponsor)

Representative Farabee moved to suspend all necessary rules to take up and consider at this time **SCR 65**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 65, Recalling **SB 732** from the governor's office.

SCR 65 was adopted without objection.

SB 303 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED

On motion of Representative Gallego, the house granted the request of the senate for the appointment of a conference committee on **SB 303**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 303**: Gallego, chair, Thompson, McCall, Solis, and Uresti.

SB 342 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED

On motion of Representative Alexander, the house granted the request of the senate for the appointment of a conference committee on **SB 342**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 342**: Alexander, chair, Y. Davis, Hawley, Bosse, and Brimer.

SB 510 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 510**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 510**: Walker, chair, Haggerty, R. Lewis, Callegari, and Geren.

**SB 768 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hopson, the house granted the request of the senate for the appointment of a conference committee on **SB 768**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 768**: Hopson, chair, Gray, Maxey, Telford, and Delisi.

**SB 113 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Goolsby, the house granted the request of the senate for the appointment of a conference committee on **SB 113**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 113**: Goolsby, chair, Hawley, Hamric, Hill, and Y. Davis.

**SB 214 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Isett, the house granted the request of the senate for the appointment of a conference committee on **SB 214**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 214**: Williams, chair, Hinojosa, Keel, Noriega, and Wise.

**SB 1074 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hinojosa, the house granted the request of the senate for the appointment of a conference committee on **SB 1074**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1074**: Thompson, chair, Hinojosa, P. King, Keel, and Dunnam.

**SB 1432 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative A. Reyna, the house granted the request of the senate for the appointment of a conference committee on **SB 1432**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1432**: A. Reyna, chair, P. King, Morrison, Rangel, and Tillery.

**SB 1320 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative A. Reyna, the house granted the request of the senate for the appointment of a conference committee on **SB 1320**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1320**: Solomons, chair, Woolley, Brimer, Dukes, and Y. Davis.

**HB 772 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Haggerty called up with senate amendments for consideration at this time,

HB 772, A bill to be entitled An Act relating to the eligibility of certain offenders for medically recommended intensive supervision and the provision of facilities for those offenders.

Representative Haggerty moved to discharge the conferees and concur in the senate amendments to **HB 772**.

The motion prevailed.

HB 772 - STATEMENT OF LEGISLATIVE INTENT

CHAIR: Chair recognizes Mr. Haggerty.

REPRESENTATIVE HAGGERTY: Mr. Speaker, members, I move to call up **HB 772** in concurrence with senate amendments and discharge the conferees.

CHAIR: Mr. Haggerty moves to discharge the conferees on **HB 772** and . . .

REPRESENTATIVE ALLEN: Mr. Speaker?

CHAIR: Mr. Allen.

ALLEN: Could I ask the gentleman a question?

CHAIR: Mr. Haggerty do you yield to Mr. Allen?

HAGGERTY: I yield, yes.

CHAIR: Chairman yields, Mr. Allen.

ALLEN: Thank you, Mr. Speaker. Mr. Chairman, in order to establish legislative intent, may I ask you about some language in Section 2 of the bill?

HAGGERTY: Yes, sir.

ALLEN: What is the definition of the term "efficient use of capacity" as it appears in that section?

HAGGERTY: The senate put this on, on the other side. It has to do with the Shady Acres rest home that there is currently a contract with. We want to make sure that legislative intent will define the efficient use of capacity at 75 percent of that facility, before TDCJ can release people to other facilities.

ALLEN: So our intent is to make certain that 75 percent of those beds are filled before we move on to . . .

HAGGERTY: . . . that would be efficient use of capacity, yes sir.

ALLEN: All right, thank you.

REMARKS ORDERED PRINTED

Representative Allen moved to print remarks by Representative Haggerty and Representative Allen.

The motion prevailed without objection.

Senate Committee Substitute

CSHB 772. A bill to be entitled An Act relating to the eligibility of certain offenders for medically recommended intensive supervision and the provision of facilities for those offenders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 508.146, Government Code, is amended to read as follows:

Sec. 508.146. MEDICALLY RECOMMENDED INTENSIVE SUPERVISION ~~[SPECIAL NEEDS PAROLE]~~. (a) An inmate serving a sentence for which parole eligibility is otherwise determined under Section 508.145(f) may become eligible for release on medically recommended intensive supervision ~~[special needs parole]~~ on a date designated by a parole panel that is earlier than the date computed under that section if:

(1) the Texas Council on Offenders with Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, [institutional division] identifies the inmate as being elderly, physically handicapped, mentally ill, terminally ill, ~~[or]~~ mentally retarded, or having a condition requiring long-term care;

(2) the parole panel determines that, based on the inmate's condition and a medical evaluation, the inmate does not constitute a threat to public safety ~~[or a threat to commit an offense]; and~~

(3) the Texas Council on Offenders with Mental Impairments, in cooperation with the pardons and paroles division, has prepared for the inmate a medically recommended intensive supervision ~~[special needs parole]~~ plan that requires the inmate to submit to electronic monitoring, places the inmate on super-intensive supervision, or otherwise ensures appropriate supervision of the inmate, ~~[service provision, and placement].~~

(b) An inmate ~~[diagnosed as mentally ill or mentally retarded]~~ may be released on medically recommended intensive supervision ~~[special needs parole]~~ only if the inmate's medically recommended intensive supervision ~~[special needs parole]~~ plan under Subsection (a)(3) is approved by the Texas Council on Offenders with Mental Impairments.

(c) A parole panel shall require as a condition of release under this section that the releasee remain under the care of a physician and in a medically suitable placement. At least once each calendar quarter, the Texas Council on Offenders with Mental Impairments shall report to the board on the releasee's medical and placement status. On the basis of the report, a parole panel may modify conditions of release and impose any condition on the releasee that the panel could impose on a releasee released under Section 508.145, including a condition that the releasee reside in a halfway house or community residential facility.

(d) The Texas Council on Offenders with Mental Impairments and the Texas Department of Human Services shall jointly request proposals from public or private vendors to provide under contract services for inmates released on medically recommended intensive supervision. A request for proposals under this subsection may require that the services be provided in a medical care facility located in an urban area. For the purposes of this subsection,

"urban area" means the area in this state within a metropolitan statistical area, according to the standards of the United States Bureau of the Census.

SECTION 2. In issuing requests for proposals on or after the effective date of this Act, the council and the department shall give consideration to the efficient use of capacity made available to serve releasees pursuant to requests for proposals issued before the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2001.

**HB 2589 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 2589, A bill to be entitled An Act relating to the required posting of information on a state agency's Internet site and to the security, confidentiality, and management of certain information.

Representative Hochberg moved to discharge the conferees and concur in the senate amendments to **HB 2589**.

The motion prevailed.

Senate Committee Substitute

CSHB 2589, A bill to be entitled An Act relating to the required posting of information on a state agency's Internet site and to the security, confidentiality, and management of certain information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.063 to read as follows:

Sec. 2054.063. INFORMATION SECURITY. The department shall establish and administer a clearinghouse for information relating to all aspects of protecting the security of state agency information.

SECTION 2. Section 2054.092, Government Code, is amended to read as follows:

Sec. 2054.092. **CONTENT OF STATE STRATEGIC PLAN.** The state strategic plan must:

(1) provide a strategic direction for information resources management in state government for the five fiscal years following adoption of the plan, including providing a best practices model to assist state agencies in adopting effective information management methods and obtaining effective information resources technologies;

(2) provide guidance to state agencies in the development of the agency strategic plans;

(3) establish goals and objectives relating to information resources management;

(4) provide long-range policy guidelines for information resources in state government, including the implementation of national and international standards for information resources technologies;

(5) identify major issues relating to improved information resources management, including the identification of needed procurement policy initiatives to encourage competition between providers of information resources technologies; and

(6) identify priorities for the implementation of information resources technologies according to the relative economic and social impact on the state.

SECTION 3. Section 2054.121, Government Code, as added by Section 1, Chapter 1573, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

Sec. 2054.121. **REQUIRED POSTING OF INFORMATION ON INTERNET.** (a) The department shall adopt a policy that:

(1) prescribes terms under which a person may use, copy information from, or link to a generally accessible Internet site maintained by or for a state agency; and

(2) protects the personal information of members of the public who access information from or through a generally accessible Internet site maintained by or for a state agency.

(b) The department shall post the policy on its Internet site. A state agency shall prominently post a link to the policy statement on a generally accessible Internet site maintained by or for the agency.

(c) The policy shall include a statement:

(1) generally allowing the use and reproduction of information on a state agency's Internet site without the state agency's permission, subject to specified conditions;

(2) generally allowing linking from a web page to a page on a state agency's Internet site without the state agency's permission, subject to specified conditions;

(3) prohibiting a state agency from charging a fee to access, use, reproduce information on, or link to its Internet site except to the extent the state agency is specifically authorized to do so by the legislature;

(4) requiring that the state agency's Internet site be credited as the source of information reproduced from the site and requiring that the date that the material was reproduced from the site be clearly stated;

(5) prohibiting a state agency from selling or releasing an e-mail address of a member of the public unless the member of the public affirmatively consents to the sale or release of the e-mail address; and

(6) specifying other policies necessary to protect from public disclosure personal information submitted by a member of the public to a state agency's Internet site to the extent the information is:

(A) confidential;

(B) excepted from the requirements of Section 552.021; or

(C) protected by other law intended to protect a person's privacy interests.

(d) Each state agency, other than an institution of higher education, that receives an aggregate amount of appropriations in the General Appropriations Act for a state fiscal biennium that exceeds \$175 million shall post the following information during the biennium on a generally accessible Internet site maintained by or for the agency:

(1) an analysis of all agency expenditures during the two preceding state fiscal years that lists each county in the state and states for each county the amount of agency expenditures made in or for the benefit of the county;

(2) if the information required to substantially comply with Subdivision (1) is not available, an analysis that approximates compliance with Subdivision (1) to the greatest possible extent by listing agency expenditures according to geographic regions of the state, to the extent possible, and by each field office of the agency;

(3) a profile of the governing officer or of each member of the governing body of the agency that includes, among other information, the office address of the officer or member;

(4) a listing and description of all contracts with vendors that have a value exceeding \$100,000 that the agency has entered into and that are currently being performed or for which performance has not yet begun;

(5) a brief description of the agency's duties; and

(6) an electronic link to the agency's rules as published in the electronic version of the Texas Administrative Code and an electronic link to any written procedure of the agency relating to agency hearings that is not contained in the electronic version of the Texas Administrative Code.

SECTION 4. Subchapter F, Chapter 2054, Government Code, is amended by adding Section 2054.127 to read as follows:

Sec. 2054.127. INTERNET WEBSITE DEVELOPMENT: GRANTS AND ASSISTANCE. The department shall encourage each state agency to seek available grants and to work with public educational institutions and members of the business and industry community for the purpose of Internet website development and maintenance.

SECTION 5. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.136 to read as follows:

Sec. 552.136. CONFIDENTIALITY OF CERTAIN E-MAIL ADDRESSES. (a) An e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

SECTION 6. This Act takes effect September 1, 2001.

HB 787 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Gallego called up with senate amendments for consideration at this time,

HB 787, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Brewster County Groundwater Conservation District.

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 787**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 787**: Gallego, chair, Walker, Puente, Cook, and T. King.

**HB 2164 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Goolsby called up with senate amendments for consideration at this time,

HB 2164, A bill to be entitled An Act relating to the sale of Woodlawn by the State Preservation Board.

Representative Goolsby moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2164**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2164**: Goolsby, chair, Chisum, McReynolds, McCall, and Hunter.

**HCR 284 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Goodman called up with senate amendments for consideration at this time,

HCR 284, Instructing the enrolling clerk of the house to make technical corrections in **HB 1225**.

On motion of Representative Goodman, the house concurred in the senate amendments to **HCR 284**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HCR 284**, on page 1, line 24, by striking "on or after" and substituting "before, on, or after".

**HB 2879 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 2879, A bill to be entitled An Act relating to public school finance.

Representative Hochberg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2879**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2879**: Sadler, chair, Marchant, Hochberg, Tillery, and Pitts.

HB 2255 - VOTE RECONSIDERED

Representative McCall moved to reconsider the vote by which the house concurred in senate amendments to **HB 2255**.

The motion to reconsider prevailed.

HB 2255 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative McCall called up with senate amendments for consideration at this time,

HB 2255, A bill to be entitled An Act relating to the continuation and functions of the State Securities Board; providing penalties.

Representative McCall moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2255**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2255**: McCall, chair, Chisum, Gallego, Hartnett, and Tillery.

RESOLUTIONS REFERRED TO COMMITTEES

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSSB 309 ON SECOND READING (Bosse - House Sponsor)

CSSB 309, A bill to be entitled An Act relating to the application of the sunset review process to certain governmental entities.

CSSB 309 was read second time on May 18, postponed until May 21, and was again postponed until this time.

Representative Bosse moved to postpone consideration of **CSSB 309** until 2 p.m. today.

The motion prevailed without objection.

CSSB 1783 ON SECOND READING (Wolens, Counts, and Hawley - House Sponsors)

CSSB 1783, A bill to be entitled An Act relating to enhanced availability of advanced telecommunications service.

CSSB 1783 was read second time on May 16, amended, postponed until May 17, postponed until May 18, postponed until May 21, and was again postponed until this time.

Representative Wolens moved to postpone consideration of **CSSB 1783** until 11:30 a.m. today.

The motion prevailed without objection.

SB 467 ON SECOND READING
(Oliveira - House Sponsor)

SB 467, A bill to be entitled An Act relating to dual language immersion programs in certain public schools.

SB 467 was read second time on May 18 and was postponed until this time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hochberg, Representative Olivo offered the following committee amendment to **SB 467**:

Amend **SB 467**, on page 1, SECTION 1, lines 11 through 18, by striking all language after "grades".

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representative Oliveira, Representative Olivo offered the following amendment to **SB 467**:

Amend **SB 467** as follows:

(1) In SECTION 1 of the bill, in added Section 28.005(c), Education Code (House committee report, page 1, line 11), between "grades" and the period, insert "as provided by Section 28.0051".

(2) Between SECTIONS 1 and 2 of the bill (House committee report, page 1, between lines 18 and 19), insert the following appropriately numbered SECTIONS and renumber the subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0051 to read as follows:

Sec. 28.0051. DUAL LANGUAGE IMMERSION PROGRAM. (a) A dual language immersion program should be designed to produce students with a demonstrated mastery, in both English and one other language, of the required curriculum under Section 28.002(a).

(b) The commissioner by rule shall adopt:

(1) minimum requirements for a dual language immersion program implemented by a school district;

(2) standards for evaluating:

(A) the success of a dual language immersion program; and

(B) the performance of schools that implement a dual language immersion program; and

(3) standards for recognizing:

(A) schools that offer an exceptional dual language immersion program; and

(B) students who successfully complete a dual language immersion program.

(c) A school district may implement a dual language immersion program in a manner and at elementary grade levels consistent with rules adopted by the commissioner under this section.

SECTION __. The rules adopted by the commissioner of education under Section 28.0051, Education Code, as added by this Act, must first address the implementation of dual language immersion programs in prekindergarten through second grade classes before addressing dual language immersion programs in grade levels three and above.

Amendment No. 2 was adopted without objection.

SB 467, as amended, was passed to third reading.

**MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**SB 2 ON THIRD READING
(R. Lewis - House Sponsor)**

SB 2, A bill to be entitled An Act relating to the development and management of the water resources of the state, including the ratification of the creation of certain groundwater conservation districts; providing penalties.

Amendment No. 1

Representative B. Turner offered the following amendment to **SB 2**:

Amend **SB 2**, third reading, by striking SECTION 2.09. Section 11.142 (b) of the bill (page 16, lines 8 through 16) and renumbering the subsequent sections of the bill accordingly.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative B. Turner offered the following amendment to **SB 2**:

Amend **SB 2** on third reading as follows:

(1) At the end of the heading for ARTICLE 3 of the bill, add "AND CREATIONS".

(2) Add an appropriately numbered new PART to ARTICLE 3 of the bill, and appropriately number SECTIONS of that PART and renumber subsequent SECTIONS of that ARTICLE, to read as follows:

**PART __. KIMBLE COUNTY GROUNDWATER
CONSERVATION DISTRICT**

SECTION _____. CREATION. (a) A groundwater conservation district, to be known as the Kimble County Groundwater Conservation District, is created in Kimble County, subject to approval at a confirmation election under this part. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION _____. DEFINITION. In this part, "district" means the Kimble County Groundwater Conservation District.

SECTION _____. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Kimble County, Texas, excluding that part of Kimble County that lies within the boundaries of the Hickory Underground Water District.

SECTION _____. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION _____. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law that is in conflict or is inconsistent with this part.

(b) Notwithstanding Subsection (a) of this section, the following provisions prevail over a conflicting or inconsistent provision of this part:

- (1) Sections 36.1071-36.108, Water Code;
- (2) Sections 36.159-36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

(c) Chapter 49, Water Code, does not apply to the district.

SECTION _____. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under this part.

(c) Initial directors serve until permanent directors are elected under this part.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

SECTION _____. COMPENSATION OF DIRECTORS. A director is not entitled to fees of office but is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

SECTION _____. TEMPORARY DIRECTORS. (a) The temporary board of directors consists of five members appointed by the Commissioners Court of Kimble County.

(b) If a temporary director fails to qualify for office, the Commissioners Court of Kimble County shall appoint a person to fill the vacancy.

SECTION _____. METHOD OF ELECTING DIRECTORS: SINGLE-MEMBER DISTRICTS. (a) The temporary directors shall draw five numbered, single-member districts for electing directors.

(b) For the conduct of an election under the following two sections of this part, the board shall provide for one director to be elected from each of the single-member districts. A director elected from a single-member district represents the residents of that single-member district.

(c) To be qualified to be a candidate for or to serve as director, a person must be a registered voter in the single-member district that the person represents or seeks to represent.

(d) The initial or permanent directors may revise the districts as necessary or appropriate. The board of directors shall revise each single-member district after each federal decennial census to reflect population changes. At the first election after the single-member districts are revised, a new director shall be elected from each district. The directors shall draw lots to determine which two directors serve two-year terms and which three directors serve four-year terms.

SECTION _____. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors' election, the temporary board of directors shall have placed on the ballot the name of any candidate filing for an initial director's position and blank spaces to write in the names of other persons. A temporary director who is qualified to be a candidate under the preceding section of this part may file for an initial director's position.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

SECTION _____. ELECTION OF DIRECTORS. (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of three directors to serve four-year terms and two directors to serve two-year terms.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

SECTION _____. TAX RATE. The district may not levy a tax to pay any part of bonds or notes issued by the district that exceeds 20 cents on each \$100 of assessed valuation.

SECTION _____. EFFECTIVE DATE; EXPIRATION DATE. (a) This part takes effect September 1, 2001.

(b) If the creation of the district is not confirmed at a confirmation election held under this part before September 1, 2003, this part expires on that date.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative T. King offered the following amendment to **SB 2**:

Amend **SB 2** on third reading in amended Section 1.03, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, in proposed Subdivision (26), by adding new Paragraph (D) wildlife management; and relettering Paragraphs (D) and (E) as Paragraphs (E) and (F).

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative T. King offered the following amendment to **SB 2**:

Amend **SB 2** on third reading in amended Section 36.001(19)(D), Water Code, by striking "and" after the semicolon, adding a new Paragraph (E) wildlife management; and, and relettering (E) as Paragraph (F).

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Keel offered the following amendment to **SB 2**:

Amend **SB 2** as follows:

1. Add a new SECTION __ to read as follows:

SECTION __. The Northeast Travis County Utility District.

Section 1. CREATION. (a) A conservation and reclamation district, to be known as the Northeast Travis County Utility District, is created in Travis County, subject to approval at a confirmation election under Section 11 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.¹

Section 2. DEFINITION. In this Act, "district" means the Northeast Travis County Utility District.

Section 3. BOUNDARIES. The district includes the territory contained within the following areas:

Tract No. 1, approximately 146.50 acres of land out of the E. Kirkland Survey No. 7, in Travis County, Texas, being all of that certain tract conveyed to Kathleen Marie England and Jay Lawrence Johnson by Deeds recorded in Volume 11403, Page 374, Volume 11618, Page 104, Volume 11861, Page 120 and Volume 12118, Page 195, Real Property Records of Travis County, Texas;²

Tract No. 2, approximately 70.31 acres of land out of the E. Kirkland Survey No. 7 in Travis County, Texas, being all of that certain tract of land conveyed to Charles E. Baker, et ux, by Deed recorded in Volume 7188, Page 1756, Deed Records of Travis County, Texas;

Tract No. 3, approximately 104.34 acres of land out of the G. M. Martin Survey No. 9, Abstract 529, Travis County, Texas, being all of that certain tract called 103.984 acres conveyed to Bernice Becker Zreet, Freida Becker Woodland, Edline Becker McMains, Adolf Becker, Jr., Wilbert Becker and Edwin F. Zreet and Bernice Zreet, Trustees of The Edwin F. and Bernice Zreet Trust dated August 27, 1997, by Deeds recorded in Volume 10215, Page 610, Volume 10537, Page 939, and Volume 13171, Page 102, Real Property Records of Travis County, Texas, and all of that certain tract called 0.356 of one acre conveyed by Muniment of Title recorded in Document No. 71552 of the Travis County Probate Records;

Tract No. 4, approximately 103.266 acres of land out of the George M. Martin Survey No. 9, Abstract 529, Travis County, Texas, being all of that certain tract conveyed to Kermit Hees and wife, Lydia Hees by Partition Deed recorded in Volume 11552, Page 475, Real Property Records of Travis County, Texas, said 103.266 acre tract being the remainder of that tract called 106-1/2 acres conveyed to W. A. Randig by Deed recorded in Volume 498, Page 219,

SAVE AND EXCEPT, that portion deeded to Travis County, Texas for highway purposes by Deed recorded in Volume 2268, Page 195, Deed Records of Travis County, Texas;²

Tract No. 5, approximately 177.301 acres of land out of the G. M. Martin Survey in Travis County, Texas, being all of that certain tract of land conveyed to Karolyn P. Graf and Robert L. Pfluger, Trustees of the Lawrence and Willie Mae Pfluger Family Trust by Deeds recorded in Volume 10431, Page 422, Volume 10555, Page 214, and Volume 11091, Page 691, Real Property Records of Travis County, Texas;

Tract No. 6, approximately 107.4 acres of land out of the George M. Martin Survey, Abstract No. 9, and being all of that certain tract of land conveyed to Robert L. Pfluger and Karolyn P. Graf by Deed recorded in Volume 12947, Page 560 and to Robert L. Pfluger, Trustee for Miranda Kimbro and Weston N. Kimbro and Wayne Pfluger, Trustee for Joseph L. Pfluger and Lydia Pfluger, by Deed recorded in Volume 12947, Page 562, Real Property Records of Travis County, Texas;¹

Tract No. 7, approximately 9.198 acres of land out of the G. M. Martin Survey, Abstract No. 9, in Travis County, Texas, and being all of that certain tract of land conveyed to Peggy Pfluger and Robert L. Pfluger by Deed recorded in Volume 13049, Page 1353, Real Property Records of Travis County, Texas.

Section 4. FINDINGS RELATIVE TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to impose taxes, or the legality or operation of the district or its governing body.²

Section 5. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

Section 6. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 30, 49, and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

(b) The rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas Natural Resource Conservation Commission.¹

Section 7. DIVISION OF DISTRICT. (a) The district may divide into two or more districts as provided by Sections 51.748-51.753, Water Code, and this section. The proposed district may divide into two or more proposed districts before the establishment of the district is confirmed at the confirmation election held under Section 11.

(b) A district created by division under this section may divide into two or more districts after the establishment of the district is confirmed at a confirmation election. A proposed district created by division under this

section may divide into two or more proposed districts before the establishment of the district is confirmed at a confirmation election.²

(c) The district or any district resulting from a division of the district may exercise powers under Chapters 49 and 54, Water Code, to annex or exclude property after a confirmation election. The temporary board of the proposed district or of any proposed district resulting from a division of the proposed district may, after a hearing, alter the proposed boundaries of the proposed district before the temporary board orders a confirmation election.

(d) The order creating a district by division under this section and Sections 51.748-51.753, Water Code, must give the district an appropriate name that does not conflict with the name of any other district. The provisions of Section 51.749(c), Water Code, relating to naming a district, do not apply.¹

Section 8. ANNEXATION BY MUNICIPALITY. (a) The district is a water or sewer district as defined by Section 43.071, Local Government Code, for purposes of that Section.¹

(b) On annexation of the district by a municipality, the district is dissolved and the municipality shall assume the powers, authority, functions, duties, and outstanding bonded indebtedness of the district.

(c) A municipality that annexes the district must provide full municipal services, as defined by Section 43.056(c), Local Government Code, in the district before the expiration of two and one half years after the effective date of the annexation, unless certain services cannot reasonably be provided within that period and the municipality proposes a schedule for providing those services. If the municipality proposes a schedule to extend the period for providing certain services, the schedule must provide for the provision of full municipal services before the expiration of four and one half years after the effective date of the annexation.

Section 9. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 11 of this Act.

(c) Initial directors serve until permanent directors are elected under Section 12 of this Act.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as a director in the manner provided by Section 49.055.¹

(f) A director serves until the director's successor has qualified.¹

Section 10. TEMPORARY DIRECTORS. (a) The temporary board of directors consists of:

- (1) Chris Fields;
- (2) Nate Nickerson;
- (3) Seth Spiker;
- (4) John Pfluger; and
- (5) Steven Thomas.

(b) The temporary directors are not required to own land or reside in the district.²

(c) The temporary directors shall take the oath of office and execute bonds to qualify for holding their offices as soon as possible after the effective date of this Act.²

(d) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Natural Resource Conservation Commission shall appoint the necessary number of persons to fill all vacancies on the board.

Section 11. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors as provided by Section 49.102, Water Code. The board may submit to the voters propositions to authorize the issuance of bonds, a maintenance tax, and a tax to make payments under a contract.¹

(b) Section 41.001(a), Election Code, does not apply to an election held under this section.¹

Section 12. ELECTION OF DIRECTORS. (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, a general election shall be held in the district for the election of three directors to serve four-year terms and two directors to serve two-year terms.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.²

Section 13. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.¹

Section 14. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Walker offered the following amendment to **SB 2**:

Amend **SB 2** in ARTICLE 3 by adding new PARTS 13-16 to read as follows:

PART 13. BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT

SECTION 3.1301. RATIFICATION OF CREATION. The creation by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (**SB 1911**),

of the Brazos Valley Groundwater Conservation District in Robertson and Brazos counties is ratified as required by Section 15(a) of that Act, subject to approval at a confirmation election under Section 3.1314 of this article.

SECTION 3.1302. DEFINITION. In this article, "district" means the Brazos Valley Groundwater Conservation District.

SECTION 3.1303. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Robertson and Brazos counties, Texas.

SECTION 3.1304. GENERAL POWERS. (a) Except as otherwise provided by this article, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This article prevails over any provision of general law that is in conflict or inconsistent with this article, including any provision of Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (**SB 1911**).

(b) The district does not have the authority granted by the following provisions of Chapter 36, Water Code:

- (1) Section 36.105, relating to eminent domain; and
- (2) Sections 36.020 and 36.201-36.204, relating to taxes.

SECTION 3.1305. BONDS. The district may issue bonds and notes under Sections 36.171-36.181, Water Code, not to exceed \$500,000 of total indebtedness at any time.

SECTION 3.1306. FEES. (a) The board of directors of the district by rule may impose reasonable fees on each well for which a permit is issued by the district and which is not exempt from regulation by the district. A fee may be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) The initial fee shall be based on the amount of water to be withdrawn from the well. The initial fee:

- (1) may not exceed:
 - (A) \$0.25 per acre-foot for water used for irrigating agricultural crops or operating existing steam electric stations; or
 - (B) \$0.0425 per thousand gallons for water used for any other purpose; and
- (2) may be increased at a cumulative rate not to exceed three percent per year.

(c) In addition to the fee authorized under Subsection (b) of this section, the district may impose a reasonable fee or surcharge for an export fee using one of the following methods:

- (1) a fee negotiated between the district and the transporter; or
- (2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

SECTION 3.1307. EXEMPTIONS. (a) The district may exempt wells under Section 36.117, Water Code, from the requirements to obtain a drilling permit, an operating permit, or any other permit required by Chapter 36, Water Code, or the district's rules.

(b) The district may not require a permit for:

- (1) a well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres that is either drilled,

completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or

(3) the drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from any such well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

(c) The district shall not deny the owner of a tract of land, or his lessee, who has no well equipped to produce more than 25,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce groundwater from his land, subject to the rules of the district.

(d) The district may not restrict the production of any well that is exempt from permitting under Subsection (b)(1) of this section.

(e) Notwithstanding Subsection (b) of this section, the district may require a well to be permitted by the district and to comply with all district rules if:

(1) the purpose of a well exempted under Subsection (b)(2) of this section is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(2) the withdrawals from a well exempted under Subsection (b)(3) of this section are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

(f) An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorizes the drilling of a water well shall report monthly to the district:

- (1) the total amount of water withdrawn during the month;
- (2) the quantity of water necessary for mining activities; and
- (3) the quantity of water withdrawn for other purposes.

(g) Notwithstanding Subsection (e) of this section, the district may not require a well exempted under Subsection (b)(3) of this section to comply with the spacing requirements of the district.

(h) The district shall not deny an application for a permit to drill and produce water for hydrocarbon production activities if the application meets the spacing, density, and production rules applicable to all permitted water wells in the district.

(i) A water well exempted under Subsection (a) or (b) of this section may:

(1) be registered in accordance with rules promulgated by the district; and

(2) be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

(j) The district may require the driller of a well exempted under Subsection (a) or (b) of this section to file the drilling log with the district.

(k) A well to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, is not exempted under Subsection (b) of this section.

(l) Groundwater withdrawn from a well exempt from permitting or regulation under this section and subsequently transported outside the boundaries of the district shall be subject to any applicable production and export fees under Section 3.1306 of this article.

(m) This section applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This section does not apply to production or injection wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas.

SECTION 3.1308. MITIGATION ASSISTANCE. In addition to the authority granted under Chapter 36, Water Code, the district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others.

SECTION 3.1309. PERMITTING. The district shall issue permits for wells based on the consideration of whether:

(1) the application conforms to the requirements prescribed by Chapter 36, Water Code, and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) the applicant has agreed to avoid waste and achieve water conservation; and

(6) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 3.1310. REGIONAL COOPERATION. (a) To provide for regional continuity, the district shall:

(1) participate in a regular annual coordination meeting with other groundwater districts in its designated management area and may hold coordination meetings at other times as needed;

(2) coordinate the collection of data with other groundwater districts in its designated management area in such a way as to achieve relative uniformity of data type and quality;

(3) coordinate efforts to monitor water quality with other groundwater districts in its designated management area, local governments, and state agencies;

(4) provide groundwater level data to other groundwater districts in its designated management area;

(5) investigate any groundwater and aquifer pollution with the intention of locating its source;

(6) notify other groundwater districts in its designated management area and all appropriate agencies of any detected groundwater pollution;

(7) annually provide to other groundwater districts in its designated management area an inventory of water wells and an estimate of groundwater production within the district; and

(8) include other groundwater districts in its designated management area on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

(b) The district shall prepare a comprehensive management plan as required by Section 36.1071, Water Code covering that district's respective territory. On completion and certification of the plan as required by Section 36.1072, the district shall forward a copy of the new or revised management plan to the other districts in its designated management area. The district shall consider the management plans individually and shall compare them to other management plans in the designated management area.

(1) The district shall, by resolution, call for joint planning with the other districts in the designated management area to review and coordinate the management plans and accomplishments for the designated management area. In reviewing and coordinating the management plans, the boards shall consider:

(A) the goals of each management plan and its impact on planning throughout the management area;

(B) the groundwater management standards of each district describing the desired condition of the groundwater source over time as indicated by indices of quantity of water in the source, quality of water produced from the source, springflows, or subsidence of the land surface;

(C) the groundwater withdrawal rates adopted by each district and the effectiveness of those rates in achieving the groundwater management standard of the district;

(D) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

(E) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(2) In the management plan the district may establish and coordinate with the other districts within the designated management area an annual total groundwater withdrawal limit and equitable allocation as determined from an evaluation of the overall scientific data of the groundwater resources in the region, including the Texas Water Development Board's groundwater availability model. The determination of sustainable groundwater withdrawal shall be reviewed at least every five years.

(3) Each district participating in the joint planning process initiated under Subsection (b) shall ensure that the groundwater management standards adopted by the district are adequate to protect the groundwater within the area of each district and are not incompatible with the groundwater management standards adopted by the other districts in the management area.

(4) If a joint meeting of the boards of directors is called, the meeting must be held in accordance with Chapter 551, Government Code. Notice of

the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act. In addition, notice of the meeting shall be published not later than the 30th day before the date of the scheduled meeting in a newspaper with general circulation in each county in the management area.

(5) A district in the management area may file with good cause a petition with the Texas Natural Resource Conservation Commission requesting an inquiry if the petitioner district adopted a resolution calling for joint planning and the other district or districts refused to join in the planning process or the process failed to result in adequate planning, and the petition provides evidence that:

(A) another district in the management area has failed to adopt rules;

(B) the groundwater in the management area is not adequately protected by the rules adopted by another district; or

(C) the groundwater in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(6) The district may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial with districts located within the same management area or in adjacent management areas. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

(c) The district shall determine biennially, using the overall available scientific data of groundwater resources in the Central Carrizo-Wilcox area, whether pumping within the district or an adjacent district is unreasonably affecting groundwater wells. The district, in agreement with other districts within the designated management area, may adopt mitigation measures in response to such unreasonable adverse effects only if the measures are based on a scientific determination made.

(d) The district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others in adjoining districts.

SECTION 3.1311. BOARD OF DIRECTORS. (a) The district is governed by a board of eight directors.

(b) Initial directors serve until permanent directors are appointed under Section 3.1313 of this article and qualified as required by Subsection (d) of this section.

(c) Permanent directors serve four-year staggered terms.

(d) Each director must qualify to serve as a director in the manner provided by Section 36.055, Water Code.

(e) A director serves until the director's successor has qualified.

(f) A director may serve consecutive terms.

(g) If there is a vacancy on the board, the governing body of the entity that appointed the director who vacated the office shall appoint a director to serve the remainder of the term.

(h) Directors are not entitled to receive compensation for serving as a director but may be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.

(i) A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

SECTION 3.1312. APPOINTMENT OF DIRECTORS. (a) The Robertson County Commissioners Court shall appoint four directors, of whom:

(1) one must represent municipal interests in the county;

(2) one must represent agricultural interests in the county;

(3) one must represent rural water suppliers' interests in the county;

and

(4) one must represent industrial interests in the county.

(b) The Brazos County Commissioners Court shall appoint two directors, of whom:

(1) one must represent rural water suppliers' interests in the county;

and

(2) one must represent agricultural interests in the county.

(c) The governing body of the City of Bryan, with the approval of the Brazos County Commissioners Court, shall appoint one director.

(d) The governing body of the City of College Station, with the approval of the Brazos County Commissioners Court, shall appoint one director.

(e) Each of the governing bodies authorized by this section to make an appointment shall appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 45th day after the effective date of this Act.

(f) The four initial directors from Robertson County shall draw lots to determine their terms. Two initial directors from Robertson County and the two initial directors from Brazos County serve terms that expire on January 1 of the second year following the confirmation of the district at an election held under Section 3.1315 of this article. The remaining four initial directors serve terms that expire on January 1 of the fourth year following the confirmation of the district. On January 1 of the second year following confirmation of the district and every two years after that date, the appropriate governing body shall appoint the appropriate number of permanent directors.

SECTION 3.1313. ORGANIZATIONAL MEETING. As soon as practicable after all the initial directors have been appointed and have qualified as provided in this article, a majority of the directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed on, the organizational meeting of the directors shall be at the Robertson County Courthouse.

SECTION 3.1314. CONFIRMATION ELECTION. (a) The initial board of directors shall call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Except as provided by this section, a confirmation election must be

conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) Confirmation of the district requires a vote in favor of confirmation by a majority of the qualified voters voting in the election.

(d) The district is dissolved and this article expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

PART 14. POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT

SECTION 3.1401. CREATION. (a) A groundwater conservation district, to be known as the Post Oak Savannah Groundwater Conservation District, is created in Milam and Burleson counties, subject to approval at a confirmation election under Section 3.1414 of this article. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 3.1402. DEFINITION. In this article, "district" means the Post Oak Savannah Groundwater Conservation District.

SECTION 3.1403. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Milam and Burleson counties.

SECTION 3.1404. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 3.1405. GENERAL POWERS. (a) Except as otherwise provided by this article, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This article prevails over any provision of general law that is in conflict or inconsistent with this article, including any provision of Chapter 36, Water Code.

(b) The district does not have the authority granted by the following provisions of Chapter 36, Water Code:

(1) Section 36.105, relating to eminent domain; and

(2) Sections 36.020 and 36.201-36.204, relating to taxes.

SECTION 3.1406. FEES. (a) The board of directors of the district by rule may impose reasonable fees on each well for which a permit is issued by the district and which is not exempt from regulation by the district. A fee may be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) Fees may not exceed:

(1) one dollar per acre-foot for water used for irrigating agricultural crops; or

(2) 17 cents per thousand gallons for water used for any other purpose.

(c) In addition to the fee authorized under Subsection (b) of this section, the district may impose a reasonable fee or surcharge for an export fee using one of the following methods:

(1) a fee negotiated between the district and the transporter; or

(2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

SECTION 3.1407. EXEMPTIONS. (a) The district may exempt wells under Section 36.117, Water Code, from the requirements to obtain a drilling permit, an operating permit, or any other permit required by Chapter 36, Water Code, or the district's rules.

(b) The district may not require a permit for:

(1) a well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or

(3) the drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from any such well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

(c) The district shall not deny the owner of a tract of land, or his lessee, who has no well equipped to produce more than 25,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce groundwater from his land, subject to the rules of the district.

(d) The district may not restrict the production of any well that is exempt from permitting under Subsection (b)(1) of this section.

(e) Notwithstanding Subsection (b) of this section, the district may require a well to be permitted by the district and to comply with all district rules if:

(1) the purpose of a well exempted under Subsection (b)(2) of this section is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(2) the withdrawals from a well exempted under Subsection (b)(3) of this section are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

(f) An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorizes the drilling of a water well shall report monthly to the district:

(1) the total amount of water withdrawn during the month;

(2) the quantity of water necessary for mining activities; and

(3) the quantity of water withdrawn for other purposes.

(g) Notwithstanding Subsection (e) of this section, a district may not require a well exempted under Subsection (b)(3) of this section to comply with the spacing requirements of the district.

(h) The district shall not deny an application for a permit to drill and produce water for hydrocarbon production activities if the application meets the spacing, density, and production rules applicable to all permitted water wells in the district.

(i) A water well exempted under Subsection (a) or (b) of this section may:

(1) be registered in accordance with rules promulgated by the district;
and

(2) be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

(j) The district may require the driller of a well exempted under Subsection (a) or (b) of this section to file the drilling log with the district.

(k) A well to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, is not exempted under Subsection (b) of this section.

(l) Groundwater withdrawn from a well exempt from permitting or regulation under this section and subsequently transported outside the boundaries of the district shall be subject to any applicable production and export fees under Section 3.1406 of this article.

(m) This section applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This section does not apply to production or injection wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas.

SECTION 3.1408. MITIGATION ASSISTANCE. In addition to the authority granted under Chapter 36, Water Code, the district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others.

SECTION 3.1409. PERMITTING. The district shall issue permits for wells based on the consideration of whether:

(1) the application conforms to the requirements prescribed by Chapter 36, Water Code, and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) the applicant has agreed to avoid waste and achieve water conservation; and

(6) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 3.1410. REGIONAL COOPERATION. (a) To provide for regional continuity, the district shall:

(1) participate in a regular annual coordination meeting with other groundwater districts in its designated management area and may hold coordination meetings at other times as needed;

(2) coordinate the collection of data with other groundwater districts

in its designated management area in such a way as to achieve relative uniformity of data type and quality;

(3) coordinate efforts to monitor water quality with other groundwater districts in its designated management area, local governments, and state agencies;

(4) provide groundwater level data to other groundwater districts in its designated management area;

(5) investigate any groundwater and aquifer pollution with the intention of locating its source;

(6) notify other groundwater districts in its designated management area and all appropriate agencies of any detected groundwater pollution;

(7) annually provide to other groundwater districts in its designated management area an inventory of water wells and an estimate of groundwater production within the district; and

(8) include other groundwater districts in its designated management area on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

(b) The district shall prepare a comprehensive management plan as required by Section 36.1071, Water Code covering that district's respective territory. On completion and certification of the plan as required by Section 36.1072, the district shall forward a copy of the new or revised management plan to the other districts in its designated management area. The district shall consider the management plans individually and shall compare them to other management plans in the designated management area.

(1) The district shall, by resolution, call for joint planning with the other districts in the designated management area to review and coordinate the management plans and accomplishments for the designated management area. In reviewing and coordinating the management plans, the boards shall consider:

(A) the goals of each management plan and its impact on planning throughout the management area;

(B) the groundwater management standards of each district describing the desired condition of the groundwater source over time as indicated by indices of quantity of water in the source, quality of water produced from the source, springflows, or subsidence of the land surface;

(C) the groundwater withdrawal rates adopted by each district and the effectiveness of those rates in achieving the groundwater management standard of the district;

(D) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

(E) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(2) In the management plan the district may establish and coordinate with the other districts within the designated management area an annual total groundwater withdrawal limit and equitable allocation as determined from an evaluation of the overall scientific data of the groundwater resources in the region, including the Texas Water Development Board's groundwater

availability model. The determination of sustainable groundwater withdrawal shall be reviewed at least every five years.

(3) Each district participating in the joint planning process initiated under Subsection (b) shall ensure that the groundwater management standards adopted by the district are adequate to protect the groundwater within the area of each district and are not incompatible with the groundwater management standards adopted by the other districts in the management area.

(4) If a joint meeting of the boards of directors is called, the meeting must be held in accordance with Chapter 551, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act. In addition, notice of the meeting shall be published not later than the 30th day before the date of the scheduled meeting in a newspaper with general circulation in each county in the management area.

(5) A district in the management area may file with good cause a petition with the Texas Natural Resource Conservation Commission requesting an inquiry if the petitioner district adopted a resolution calling for joint planning and the other district or districts refused to join in the planning process or the process failed to result in adequate planning, and the petition provides evidence that:

(A) another district in the management area has failed to adopt rules;

(B) the groundwater in the management area is not adequately protected by the rules adopted by another district; or

(C) the groundwater in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(6) The district may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial with districts located within the same management area or in adjacent management areas. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

(c) The district shall determine biennially, using the overall available scientific data of groundwater resources in the Central Carrizo-Wilcox area, whether pumping within the district or an adjacent district is unreasonably affecting groundwater wells. The district, in agreement with other districts within the designated management area, may adopt mitigation measures in response to such unreasonable adverse effects only if the measures are based on a scientific determination made.

(d) The district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic

and livestock users due to the groundwater pumping of others in adjoining districts.

SECTION 3.1411. BOARD OF DIRECTORS. (a) The district is governed by a board of 10 directors.

(b) Initial directors serve until permanent directors are appointed under Section 3.1412 of this article and qualified as required by Subsection (d) of this section.

(c) Permanent directors serve four-year staggered terms.

(d) Each director must qualify to serve as a director in the manner provided by Section 36.055, Water Code.

(e) A director serves until the director's successor has qualified.

(f) A director may serve consecutive terms.

(g) If there is a vacancy on the board, the governing body of the entity that appointed the director who vacated the office shall appoint a director to serve the remainder of the term.

(h) Directors are not entitled to receive compensation for serving as a director but may be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.

(i) A quorum exists when at least two-thirds of the board members are present. A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

SECTION 3.1412. APPOINTMENT OF DIRECTORS. (a) The Milam County Commissioners Court shall appoint five directors, of whom:

- (1) one must represent municipal interests in the county;
- (2) one must represent agricultural interests in the county;
- (3) one must represent rural water suppliers' interests in the county;
- (4) one must represent industrial interests in the county; and
- (5) one must represent the interests of the county at large.

(b) The Burleson County Commissioners Court shall appoint five directors, of whom:

- (1) one must represent municipal interests in the county;
- (2) one must represent agricultural interests in the county;
- (3) one must represent rural water suppliers' interests in the county;
- (4) one must represent industrial interests in the county; and
- (5) one must represent the interests of the county at large.

(c) Each of the governing bodies authorized by this section to make an appointment shall appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 45th day after the effective date of this Act.

(d) The initial directors shall draw lots to determine their terms. Two initial directors from Milam County and two initial directors from Burleson County serve terms that expire on January 1 of the second year following the confirmation of the district at an election held under 3.1414 of this article. The remaining six initial directors serve terms that expire on January 1 of the fourth year following the confirmation of the district. On January 1 of the second year following confirmation of the district and every two years after that date, the appropriate commissioners court shall appoint the appropriate number of permanent directors.

SECTION 3.1413. ORGANIZATIONAL MEETING. As soon as practicable after all the initial directors have been appointed and have qualified as provided in this article, a majority of the directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed on, the organizational meeting of the directors shall be at the Milam County Courthouse.

SECTION 3.1414. CONFIRMATION ELECTION. (a) The initial board of directors shall call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district.

(d) The district is dissolved and this article expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

PART 15. MID-EAST TEXAS GROUNDWATER CONSERVATION DISTRICT

SECTION 3.1501. CREATION. (a) A groundwater conservation district, to be known as the Mid-East Texas Groundwater Conservation District, is created in Leon, Madison, and Freestone counties, subject to approval at a confirmation election under Section 3.151 4 of this article. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 3.1502. DEFINITION. In this article, "district" means the Mid-East Texas Groundwater Conservation District.

SECTION 3.1503. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Leon, Madison, and Freestone counties.

SECTION 3.1504. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 3.1505. GENERAL POWERS. (a) Except as otherwise provided by this article, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This article prevails over any provision of general law that is in conflict or inconsistent with this article, including any provision of Chapter 36, Water Code.

(b) The district does not have the authority granted by the following provisions of Chapter 36, Water Code:

(1) Section 36.105, relating to eminent domain; and

(2) Sections 36.020 and 36.201-36.204, relating to taxes.

SECTION 3.1506. FEES. (a) The board of directors of the district by rule may impose reasonable fees on each well for which a permit is issued by the

district and which is not exempt from regulation by the district. A fee may be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) Fees may not exceed:

(1) one dollar per acre-foot for water used for irrigating agricultural crops; or

(2) 17 cents per thousand gallons for water used for any other purpose.

(c) In addition to the fee authorized under Subsection (b) of this section, the district may impose a reasonable fee or surcharge for an export fee using one of the following methods:

(1) a fee negotiated between the district and the transporter; or

(2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

SECTION 3.1507. EXEMPTIONS. (a) The district may exempt wells under Section 36.117, Water Code, from the requirements to obtain a drilling permit, an operating permit, or any other permit required by Chapter 36, Water Code, or the district's rules.

(b) The district may not require a permit for:

(1) a well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or

(3) the drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from any such well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

(c) The district shall not deny the owner of a tract of land, or his lessee, who has no well equipped to produce more than 25,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce groundwater from his land, subject to the rules of the district.

(d) The district may not restrict the production of any well that is exempt from permitting under Subsection (b)(1) of this section.

(e) Notwithstanding Subsection (b) of this section, the district may require a well to be permitted by the district and to comply with all district rules if:

(1) the purpose of a well exempted under Subsection (b)(2) of this section is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(2) the withdrawals from a well exempted under Subsection (b)(3) of this section are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

(f) An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorizes the drilling of a water well shall report monthly to the district:

- (1) the total amount of water withdrawn during the month;
- (2) the quantity of water necessary for mining activities; and
- (3) the quantity of water withdrawn for other purposes.

(g) Notwithstanding Subsection (e) of this section, the district may not require a well exempted under Subsection (b)(3) of this section to comply with the spacing requirements of the district.

(h) The district shall not deny an application for a permit to drill and produce water for hydrocarbon production activities if the application meets the spacing, density, and production rules applicable to all permitted water wells in the district.

(i) A water well exempted under Subsection (a) or (b) of this section may:

(1) be registered in accordance with rules promulgated by the district; and

(2) be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

(j) The district may require the driller of a well exempted under Subsection (a) or (b) of this section to file the drilling log with the district.

(k) A well to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, is not exempted under Subsection (b) of this section.

(l) Groundwater withdrawn from a well exempt from permitting or regulation under this section and subsequently transported outside the boundaries of the district shall be subject to any applicable production and export fees under Section 3.1506 of this article.

(m) This section applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This section does not apply to production or injection wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas.

SECTION 3.1508. MITIGATION ASSISTANCE. In addition to the authority granted under Chapter 36, Water Code, the district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others.

SECTION 3.1509. PERMITTING. The district shall issue permits for wells based on the consideration of whether:

(1) the application conforms to the requirements prescribed by Chapter 36, Water Code, and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) the applicant has agreed to avoid waste and achieve water conservation; and

(6) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 3.1510. REGIONAL COOPERATION. (a) To provide for regional continuity, the district shall:

(1) participate in a regular annual coordination meeting with other groundwater districts in its designated management area and may hold coordination meetings at other times as needed;

(2) coordinate the collection of data with other groundwater districts in its designated management area in such a way as to achieve relative uniformity of data type and quality;

(3) coordinate efforts to monitor water quality with other groundwater districts in its designated management area, local governments, and state agencies;

(4) provide groundwater level data to other groundwater districts in its designated management area;

(5) investigate any groundwater and aquifer pollution with the intention of locating its source;

(6) notify other groundwater districts in its designated management area and all appropriate agencies of any detected groundwater pollution;

(7) annually provide to other groundwater districts in its designated management area an inventory of water wells and an estimate of groundwater production within the district; and

(8) include other groundwater districts in its designated management area on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

(b) The district shall prepare a comprehensive management plan as required by Section 36.1071, Water Code covering that district's respective territory. On completion and certification of the plan as required by Section 36.1072, the district shall forward a copy of the new or revised management plan to the other districts in its designated management area. The district shall consider the management plans individually and shall compare them to other management plans in the designated management area.

(1) The district shall, by resolution, call for joint planning with the other districts in the designated management area to review and coordinate the management plans and accomplishments for the designated management area. In reviewing and coordinating the management plans, the boards shall consider:

(A) the goals of each management plan and its impact on planning throughout the management area;

(B) the groundwater management standards of each district describing the desired condition of the groundwater source over time as indicated by indices of quantity of water in the source, quality of water produced from the source, springflows, or subsidence of the land surface;

(C) the groundwater withdrawal rates adopted by each district

and the effectiveness of those rates in achieving the groundwater management standard of the district;

(D) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

(E) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(2) In the management plan the district may establish and coordinate with the other districts within the designated management area an annual total groundwater withdrawal limit and equitable allocation as determined from an evaluation of the overall scientific data of the groundwater resources in the region, including the Texas Water Development Board's groundwater availability model. The determination of sustainable groundwater withdrawal shall be reviewed at least every five years.

(3) Each district participating in the joint planning process initiated under Subsection (b) shall ensure that the groundwater management standards adopted by the district are adequate to protect the groundwater within the area of each district and are not incompatible with the groundwater management standards adopted by the other districts in the management area.

(4) If a joint meeting of the boards of directors is called, the meeting must be held in accordance with Chapter 551, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act. In addition, notice of the meeting shall be published not later than the 30th day before the date of the scheduled meeting in a newspaper with general circulation in each county in the management area.

(5) A district in the management area may file with good cause a petition with the Texas Natural Resource Conservation Commission requesting an inquiry if the petitioner district adopted a resolution calling for joint planning and the other district or districts refused to join in the planning process or the process failed to result in adequate planning, and the petition provides evidence that:

(A) another district in the management area has failed to adopt rules;

(B) the groundwater in the management area is not adequately protected by the rules adopted by another district; or

(C) the groundwater in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(6) The district may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial with districts located within the same management area or in adjacent management areas. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination,

regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

(c) The district shall determine biennially, using the overall available scientific data of groundwater resources in the Central Carrizo-Wilcox area, whether pumping within the district or an adjacent district is unreasonably affecting groundwater wells. The district, in agreement with other districts within the designated management area, may adopt mitigation measures in response to such unreasonable adverse effects only if the measures are based on a scientific determination made.

(d) The district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others in adjoining districts.

SECTION 3.1511. BOARD OF DIRECTORS. (a) The district is governed by a board of nine directors.

(b) Initial directors serve until permanent directors are appointed under Section 3.1512 of this article and qualified as required by Subsection (d) of this section.

(c) Permanent directors serve four-year staggered terms.

(d) Each director must qualify to serve as a director in the manner provided by Section 36.055, Water Code.

(e) A director serves until the director's successor has qualified.

(f) A director may serve consecutive terms.

(g) If there is a vacancy on the board, the governing body of the entity that appointed the director who vacated the office shall appoint a director to serve the remainder of the term.

(h) Directors are not entitled to receive compensation for serving as a director but may be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.

(i) A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

SECTION 3.1512. APPOINTMENT OF DIRECTORS. (a) The Leon County Commissioners Court shall appoint three directors, of whom:

(1) one must represent the interests of rural water suppliers or municipalities in the county, or both;

(2) one must represent agricultural interests in the county; and

(3) one must represent industrial interests in the county.

(b) The Madison County Commissioners Court shall appoint three directors, of whom:

(1) one must represent the interests of rural water suppliers or municipalities in the county, or both;

(2) one must represent agricultural interests in the county; and

(3) one must represent industrial interests in the county.

(c) The Freestone County Commissioners Court shall appoint three directors, of whom:

(1) one must represent the interests of rural water suppliers or municipalities in the county, or both;

(2) one must represent agricultural interests in the county; and

(3) one must represent industrial interests in the county.

(d) Each of the governing bodies authorized by this section to make an appointment shall appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 45th day after the effective date of this Act.

(e) The initial directors shall draw lots to determine their terms. A simple majority of the initial directors, if an odd number of initial directors are appointed, or half the initial directors, if an even number of initial directors are appointed, serve terms that expire on January 1 of the fourth year following the confirmation of the district at an election held under Section 3.1514 of this article. The remaining initial directors serve terms that expire on January 1 of the second year following the confirmation of the district. On January 1 of the second year following confirmation of the district and every two years after that date, the appropriate commissioners courts shall appoint the appropriate number of permanent directors.

SECTION 3.1513. ORGANIZATIONAL MEETING. As soon as practicable after all the initial directors have been appointed and have qualified as provided by this article, a majority of the directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed on, the organizational meeting of the directors shall be at the Leon County Courthouse.

SECTION 3.1514. CONFIRMATION ELECTION. (a) The initial board of directors shall call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. If the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

(d) The district is dissolved and this article expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Christian offered the following amendment to **SB 2**:

Amend **SB 2** on third reading by adding article 10 as follows:

SECTION 1. Chapter 11, Water Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. RESTRICTIONS ON

TRANSFER OF GROUNDWATER

Sec. 11.551. NONAPPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a transfer of groundwater from:

(1) a groundwater conservation district; or

(2) a county with a population of more the 50,000.

Sec. 11.552. PERMIT REQUIRED. (a) A person must obtain a permit from the commission before:

(1) increasing, on or after September 1, 2001, the amount of groundwater to be transferred from a county in this state to another county under a continuing arrangement in effect before that date; or

(2) transferring groundwater from a county in this state to another county on or after September 1, 2001, under a new arrangement.

(b) An application for a permit under this section must include information regarding the number and types of users of groundwater from the aquifer from which the groundwater is proposed to be transferred.

(c) The commission may impose a reasonable fee for processing an application for a permit under this section.

Sec. 11.553. NOTICE AND HEARING. (a) Before determining whether to issue a permit under this section, the commission must mail notice of the application to:

(1) each water supply system that uses groundwater from the aquifer from which the groundwater is proposed to be transferred;

(2) the commissioners court of the county from which the groundwater is proposed to be transferred;

(3) each mayor of a municipality with a population of 1,000 or more located in the county from which the groundwater is proposed to be transferred;

(4) each groundwater conservation district whose jurisdiction includes any part of the aquifer from which the ground water is proposed to be transferred; and

(5) each state legislator whose district is located in whole or in part in:

(A) the county from which the groundwater is proposed to be transferred; or

(B) the county to which the groundwater is proposed to be transferred.

(b) The applicant must publish notice of the application once a week for two consecutive weeks in a newspaper of general circulation in the county from which the groundwater is proposed to be transferred and in the county to which the groundwater is proposed to be transferred. The published notice may not be smaller than 96.8 square centimeters or 15 square inches, with the shortest dimension being at least 7.6 centimeters or three inches.

(c) The applicant shall pay the cost of mailing the notice. The commission by rule may establish procedures for payment of the cost.

(d) If the application is contested in a manner requiring an evidentiary hearing under the rules of the commission, the commission must give notice and hold an evidentiary hearing, in accordance with commission rules and applicable state law.

Sec. 11.554. CONSIDERATIONS IN DETERMINING WHETHER TO ISSUE PERMIT. In determining whether to issue a permit under this section, the commission shall consider:

(1) the availability of water in the county from which the groundwater is proposed to be transferred and in the proposed receiving area during the period for which the water supply is requested;

(2) the availability of feasible and practicable alternative supplies to the applicant;

(3) the purposes for which the proposed receiving area will use the water and the amount of water that will be used for each purpose;

(4) the projected effect of the proposed transfer on:

(A) aquifer conditions;

(B) groundwater depletion;

(C) subsidence; and

(D) groundwater users within the county from which the groundwater is proposed to be transferred; and

(5) the approved regional water plan for the regional water planning area that includes the county from which the groundwater is proposed to be transferred.

Sec. 11.555. LOCAL APPROVAL OF PERMIT ISSUANCE. (a) If the commission decides to issue a permit, the commission must mail, by certified mail in the manner provided by commission rules, written notice of its intent to issue the permit to:

(1) the water supply system that uses groundwater from the aquifer from which the groundwater is proposed to be transferred if the system is the only user of that groundwater; or

(2) if Subdivision (1) does not apply, the commissioners court of the county from which the groundwater is proposed to be transferred.

(b) The governing body of the water supply system or the commissioners court of the county, as applicable, may notify the commission in writing whether the governing body or commissioners court approves the issuance of the permit.

Sec. 11.556. ISSUANCE OF PERMIT. (a) The commission may issue a permit only if:

(1) the commission receives notice under Section 11.555(b) that the governing body of the water supply system or the commissioners court of the county, as applicable, approves the issuance of the permit; or

(2) the commission does not receive notice under Section 11.555(b) within 30 days after the date the commission mails notice of its intent to issue the permit under Section 11.555(a).

(b) The permit shall specify:

(1) the amount of groundwater that may be transferred from the county; and

(2) the period for which the groundwater may be transferred.

Sec. 11.557. RULES. The commission shall adopt rules as necessary to implement this section.

SECTION 2. This Act takes effect September 1, 2001.

Amendment No. 7 failed of adoption.

Amendment No. 8

Representative Counts offered the following amendment to **SB 2**:

Amend **SB 2** on 3rd reading by amending 2nd reading floor amendment no. 34 to **SB 2** as follows:

(1) On page 8, line 11 between "Act" and the period, insert the following:

"; provided, however, that this Act does not apply to a retail public utility for which a final order in any rate proceeding has been issued by the Texas Natural Resource Conservation Commission prior to January 1, 2001."

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Kuempel offered the following amendment to **SB 2**:

Amend **SB 2** on third reading by amending Second Reading Floor Amendment No. 27 by Representative Kuempel to **CSSB 2** (House Committee Printing) by adding the following:

Insert the following after the word "property.", "If the release of extraterritorial jurisdiction for the purpose of transferring it to another municipality results in property not being subject to any municipality's water pollution regulations on the date of release, the releasing municipality retains its jurisdiction to enforce its water pollution regulations until the property is included in the extraterritorial jurisdiction of the receiving municipality."

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative E. Jones offered the following amendment to **SB 2**:

Amend **SB 2** on third reading as follows:
In Section 6.01 of the bill, Section 1.115(b),
Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding:
The authority also shall publish notice on its Internet website.

Amendment No. 10 was adopted without objection.

SB 2, as amended, was passed.

SB 5 ON THIRD READING **(Wolens - House Sponsor)**

SB 5, A bill to be entitled An Act relating to the Texas emissions reduction plan; providing a penalty.

Amendment No. 1

Representative Wolens offered the following amendment to **SB 5**:

Amend **SB 5** on third reading as follows:

(1) In Section 1(b) of the bill, proposed Subdivision (1), Subsection (a), Section 386.252, Health and Safety Code, strike "67 percent" and substitute "72 percent".

(2) In Section 1(b) of the bill, proposed Subdivision (2), Subsection (a), Section 386.252, Health and Safety Code, strike "15 percent" and substitute "10 percent".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Wolens offered the following amendment to **SB 5**:

Amend **SB 5** in SECTION 2 of the bill, in added Subsection (b), Section 151.0515, Tax Code (House Committee Printing page 49, line 1), by striking "0.5" and substituting "one".

Amendment No. 2 was adopted without objection. (Keel and Talton recorded voting no)

Amendment No. 3

Representative Bonnen offered the following amendment to **SB 5**:

Amend **SB 5** on third reading by striking the text of Second Reading Amendment No. 6 and substituting:

Amend **SB 5** in Section 10 of the bill by striking proposed Subsection (c), Section 548.256, Transportation Code (house committee printing, page 54, lines 22-26), and substituting:

(c) The inspection station shall collect a fee of \$225 for each inspection performed under this section and shall remit the fee to the department. Of each fee collected, the inspection station may retain \$5 to cover administrative costs. The department shall remit all fees collected under this subsection to the comptroller for deposit in the Texas emissions reduction plan fund. This subsection expires August 31, 2008.

Amendment No. 4

Representatives Hupp, Miller, Delisi, and Bonnen offered the following amendment to Amendment No. 3:

Amend the Bonnen amendment to **SB 5** on third reading by adding the following to the end of the amendment:

"The fee imposed by this subsection does not apply to an inspection performed on a vehicle owned by active-duty military personnel and their dependents."

Amendment No. 4 was adopted without objection.

Amendment No. 3, as amended, was adopted without objection. (Talton recorded voting no)

Amendment No. 5

Representative Delisi offered the following amendment to **SB 5**:

Amend **SB 5** as follows:

(1) In SECTION 10 of the bill insert proposed subsection(d), Section 548.256, Transportation Code (As amended and passed to third reading, page 54, between line 26 and 27) to read as follows:

(d) A person who is an officer, enlisted person, selectee, or draftee of the Army, Army Reserve, Army National Guard, Air National Guard, Air Force, Air Force Reserve, Navy, Navy Reserve, Marine Corps, Marine Corps Reserve, Coast Guard, or Coast Guard Reserve of the United States, and the spouse

and children of such an officer, enlisted person, selectee, or draftee is exempted from the requirements of subsection (c).

Amendment No. 5 was adopted without objection.

SB 5, as amended, was passed. (Christian, Isett, and Williams recorded voting no)

SB 1156 ON THIRD READING

(Coleman, Gray, Janek, Eiland, and Junell - House Sponsors)

SB 1156, A bill to be entitled An Act relating to the state Medicaid program.

Amendment No. 1

Representative Capelo offered the following amendment to **SB 1156**:

Amend **SB 1156** on third reading in SECTION 1 of the bill, in added Section 32.024(x), Human Resources Code (House committee printing, page 1, line 8), between "prescribed" and "to a recipient", by inserting "by a physician, a person permitted to prescribe under Subchapter B, Chapter 157, Occupational Code, a dentist, an optometrist, and a podiatrist."

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Coleman and Y. Davis offered the following amendment to **SB 1156**:

Amend **SB 1156** as follows:

In SECTION 10 of the bill, in proposed Section 531.02131(a), Government Code (House Committee printing, page 30, line 26), as amended by Second Reading Amendment No. 15, strike "may" and substitute "shall".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representatives Coleman and Shields offered the following amendment to **SB 1156**:

Amend **SB 1156**, on third reading, by adding the following appropriately numbered section and renumbering subsequent sections accordingly:

SECTION ____ Subchapter B, Chapter 32, Human Resources Code, in amended by adding Section 32.0471 to read as follows:

Sec. 32.0471. FAMILY PLANNING COUNSELING SERVICES: PROVIDER QUALIFICATIONS. Notwithstanding Section 503.056, Occupations Code, the department shall require that anyone who provides counseling services related to family planning services provided under this chapter must be:

(1) a licensed healthcare provider or a licensed counseling professional; or

(2) under the supervision of a licensed healthcare professional or a licensed counseling professional.

Amendment No. 3 was adopted without objection.

SB 1156, as amended, was passed. (Williams recorded voting no)

POSTPONED BUSINESS

The following bill was laid before the house as postponed business:

CSSB 1783 ON SECOND READING
(Wolens, Counts, and Hawley - House Sponsors)

CSSB 1783, A bill to be entitled An Act relating to enhanced availability of advanced telecommunications service.

CSSB 1783 was read second time on May 16, amended, postponed until May 17, postponed until May 18, postponed until May 21, postponed until earlier today, and was again postponed until this time.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

(Speaker pro tempore in the chair)

CSSB 1783 - (consideration continued)

Representative Wilson raised a point of order against further consideration of **SB 1783** under Rule 4, Section 32(c)(3) of the House Rules on the grounds that the bill expressly delegates rulemaking authority to a state agency, but the rulemaking authority statement in the bill analysis states that the bill does not expressly delegate any additional rulemaking authority.

The chair overruled the point of order, speaking as follows:

Representative Wilson raises a point of order against further consideration of **SB 1783** under Rule 4, Section 32(c)(3), of the House Rules, in that the bill expressly delegates rulemaking authority to a state agency, but the rulemaking authority statement in the bill analysis states that the bill does not expressly delegate any additional rulemaking authority.

Representative Wilson has directed the chair's attention to Section 55.403(b), Utilities Code, as added by the bill. That section provides that a retail request for advanced service must be signed by subscribers in a community that has 1,000 or fewer access lines, "as determined in accordance with rules adopted by the Public Utility Commission (PUC), which rules must require consideration" of various factors, and that the request must comply "with rules adopted by the commission relating to requirements for a bona fide retail request."

Section 32(c) of Rule 4 was amended in 1999 to require the bill analysis attached to the committee report to be prepared by the Office of House Bill Analysis, and in accordance with the standard format used by that office since 1999, the rulemaking authority statement in the bill analysis for **SB 1783** provides "(i)t is the opinion of the Office of House Bill Analysis that this bill does not expressly delegate any additional rulemaking authority." (Emphasis added.)

The attention of the chair has been directed to Sections 14.002, 55.002, and 55.014, Utilities Code, each of which grant the PUC broad rulemaking authority to administer and enforce laws under the commission's jurisdiction,

including Chapter 55 of that code, which is amended by **SB 1783**. The attention of the chair has also been directed to the last subsection of Section 54.2045 of the Utilities Code, which is added by **SB 1783** in Section 10 of the bill. That subsection provides that "(t)he commission may not adopt any rule related to this section." The inclusion of this language in the bill indicates to the chair that the PUC, through its existing rulemaking authority, would have the authority to adopt any rules necessary to implement the provisions of this bill. Otherwise, it would not be necessary to expressly restrict that authority. It is clear to the chair from reading the provisions of the bill in context with existing statutory authority of the PUC, that the Office of House Bill Analysis reached a reasonable conclusion in considering the references in **SB 1783** to be references to existing rulemaking authority, not to the granting of additional or new authority.

There has not been a ruling on a point of order raised under this section of the rules since the establishment of the Office of House Bill Analysis. The chair finds that Office of House Bill Analysis can be compared to the Legislative Budget Board (LBB), in that the office employs staff to provide objective, independent analysis of proposed legislation. The chair is unaware of any instance in which a point of order has been sustained regarding the opinion of the LBB on the fiscal implications of a bill when considered against the text of the bill.

The chair is of the opinion that the analysis reflects an objectively supportable opinion of the office based on its analysis of the bill and research of existing law.

Accordingly, the point of order is respectfully overruled.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **SB 1**:

Junell on motion of Raymond.

Heflin on motion of Raymond.

Gallego on motion of Raymond.

Coleman on motion of Raymond.

CSSB 1783 - (consideration continued)

Amendment No. 8

Representative Wolens offered the following amendment to **CSSB 1783**:

Amend **CSSB 1783** as follows:

(1) In Subchapter L, Chapter 55, Utilities Code, as added by SECTION 2 of the bill (House Committee Printing, page 7, between lines 23 and 24), insert a new Section 55.4055 to read as follows:

Sec. 55.4055. SUPPORT FOR ADVANCED SERVICES IN CERTAIN COMMUNITIES. (a) This section applies only to a community located wholly in:

(1) a federally designated urban enterprise community;

(2) an urban enhanced enterprise community; or

(3) an economically distressed area (colonia).

(b) A local school district, municipality, or county in which a community described by Subsection (a) is located, a public library or public or private institution of higher education in the community, or a local nonprofit organization that is qualified to sponsor a program to promote the receipt and use of advanced services by community residents may, in the same manner provided for other communities by Sections 55.403, 55.404, and 55.405 and through an entity otherwise eligible to receive a grant or loan from the telecommunications infrastructure fund under Subchapter C, Chapter 57, apply for a grant or loan under that subchapter to enter into a business arrangement for the community to receive an advanced service from a cable company, fixed wireless company, satellite company, electric cooperative corporation, holder of a certificate of operating authority, service provider certificate of operating authority, or certificate of convenience and necessity, or other provider of an advanced service.

(2) In Section 57.046(b)(9), Utilities Code, as added by SECTION 4 of the bill (House Committee Printing, page 12, line 5), strike "; and" and substitute ":",

(3) In Section 57.046(b)(10), Utilities Code, as added by SECTION 4 of the bill (House Committee Printing, page 12, line 7), strike the period and substitute the following:

; and

(11) an advanced service for a community described by Section 55.4055(a).

(4) In Section 57.047(a), Utilities Code, as amended by SECTION 5 of the bill (House Committee Printing, page 12, lines 18-21), strike added Paragraphs (D) and (E) and substitute the following:

(D) community technology centers;

(E) electronic textbooks, Internet-based educational materials, and related training for parents and teachers if provided in connection with an alternative education program for children who are in the juvenile justice system;

(F) programs to promote the use of an advanced service in accordance with Section 55.4055 for a community described by Section 55.4055(a); or

(G) an advanced service for a community or sponsoring municipality or county that will use the grant for a purpose prescribed by Section 55.405(a);

(5) Strike Section 57.047(b), Utilities Code, as amended by SECTION 5 of the bill (House Committee Printing, page 13, lines 6-11), and substitute the following:

(b) The board may award a loan to a project or proposal to acquire equipment needed for distance learning, the use of electronic textbooks, Internet-based educational materials, and related training for parents and teachers if provided in connection with an alternative education program for children in the juvenile justice system, [and] telemedicine, or community technology center projects. The board may award a loan to a project or proposal that promotes the receipt and use of an advanced service in accordance with Section 55.4055 for a community described by Section 55.4055(a). The

board may award a loan to a project or proposal submitted by a community or sponsoring municipality or county to acquire equipment needed for an advanced service project under Section 55.405(a).

(6) In Section 57.047(c)(8)(B), Utilities Code, as amended by SECTION 5 of the bill (House Committee Printing, page 14, line 5), strike "; or" and substitute ";".

(7) In Section 57.047(c)(9), Utilities Code, as added by SECTION 5 of the bill (House Committee Printing, page 14, line 7), strike the period and substitute the following:

; or

(10) will promote the receipt and use of an advanced service in accordance with Section 55.4055 for a community described by Section 55.4055(a).

(8) Insert the following appropriately numbered SECTIONS to the bill to read as follows and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 51.002, Utilities Code, is amended by adding Subdivision (13) to read as follows:

(13) "Economically distressed area (colonia)" means an area that meets the requirements of Section 17.921, Water Code, and that is located within 100 kilometers (62 miles) of an international border.

SECTION _____. Section 57.045(b), Utilities Code, is amended to read as follows:

(b) The board shall prepare an annual report that:

(1) details the revenues deposited to the credit of the fund, including each account; ~~and~~

(2) summarizes the grants and loans made from each account; and

(3) summarizes the amount of grants and loans made to communities described by Section 55.4055(a).

Amendment No. 9

Representatives Dutton and Chavez offered the following amendment to Amendment No. 8:

Amend the Wolens amendment to read as follows:

Amend **CSSB 1783** as follows:

(1) In Subchapter L, Chapter 55, Utilities Code, as added by SECTION 2 of the bill (House Committee Printing, page 7, between lines 23 and 24), insert a new Section 55.4055 to read as follows:

Sec. 55.4055. SUPPORT FOR ADVANCED SERVICES IN CERTAIN COMMUNITIES. (a) This section applies only to a community located wholly or partly in a:

(1) federally designated urban enterprise community;

(2) urban enhanced enterprise community; or

(3) economically distressed area (colonia).

(b) Notwithstanding Section 55.403, a local elected official of a community described by this section may submit to a provider of advanced services a request for provision of an advanced service to not less than 25 residents of the community who are not receiving an advanced service at the time of the request. The request must include:

(1) the boundaries of the community;

(2) whether any area of the community is receiving an advanced service from the provider or from another provider of an advanced service; and

(3) the name, address, and telephone number of a community contact person.

(c) If the provider notifies the community contact person that the provider does not intend to provide an advanced service to at least the 25 residents of the community who are not receiving an advanced service at the time of the request, and if another provider of advanced service is not providing or specifically offering, as determined by the commission, an advanced service to the residents of the community who are not receiving an advanced service, then a local school district or public library in the community or a local organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986 by being listed under Section 501(c)(3), Internal Revenue Code of 1986 that sponsors a program to promote the receipt and use of advanced services by community residents may apply for a loan or grant under Subchapter C, Chapter 57 to enter into a business arrangement for residents of that community to receive an advanced service from a cable company, fixed wireless company, satellite company, electric cooperative corporation, holder of a certificate of operating authority, service provider of operating authority, or certificate of convenience and necessity or other provider of an advanced service.

(d) A local school district or public library in the community or a local organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986 by being listed under Section 501(c)(3), Internal Revenue Code of 1986 that sponsors a program to promote the receipt and use of advanced services by community residents may apply for a grant or loan under Subchapter C, Chapter 57, to provide support to such residents for reasonable installation costs associated with the installation of an advanced service from a cable company, fixed wireless company, satellite company, electric cooperative corporation, holder of a certificate of operating authority, service provider of operating authority, or certificate of convenience and necessity, or other provider of an advanced service.

(e) Money from a grant or loan received under Subsections (c) or (d) may not be used to pay for recurring expenses for a resident of the community to receive an advanced service.

(2) In Section 57.046(b)(9), Utilities Code, as added by SECTION 4 of the bill (House Committee Printing, page 12, line 5), strike "; and" and substitute ";

(3) In Section 57.046(b)(10), Utilities Code, as added by SECTION 4 of the bill (House Committee Printing, page 12, line 7), strike the period and substitute the following:

;

(11) an advanced service for residents of a community described by Section 55.4055(a).

(4) In Section 57.047(a), Utilities Code, as amended by SECTION 5 of the bill (House Committee Printing, page 12, lines 18-21), strike added Paragraphs (D) and (E) and substitute the following:

(D) community technology centers;

(E) electronic textbooks, Internet-based educational materials, and related training for parents and teachers;

(F) programs to promote the use of advanced services by residents of a community described by Section 55.4055(a); or

(G) an advanced service for a community or sponsoring municipality or county that will use the grant for a purpose prescribed by Section 55.405(a);

(5) Strike Section 57.047(b), Utilities Code, as amended by SECTION 5 of the bill (House Committee Printing, page 13, lines 6-11), and substitute the following:

(b) The board may award a loan to a project or proposal to acquire equipment needed for distance learning, the use of electronic textbooks, Internet-based educational materials, and related training for parents and teachers, [and] telemedicine, or community technology center projects. The board may award a loan to a project or proposal that promotes the receipt and use of advanced services by residents of a community described by Section 55.4055. The board may award a loan to a project or proposal submitted by a community or sponsoring municipality or county to acquire equipment needed for an advanced service project under Section 55.405(a).

(6) In Section 57.047(c)(8)(B), Utilities Code, as amended by SECTION 5 of the bill (House Committee Printing, page 14, line 5), strike "; or" and substitute "¿".

(7) In Section 57.047(c)(9), Utilities Code, as added by SECTION 5 of the bill (House Committee Printing, page 14, line 7), strike the period and substitute the following:
; or

(10) will promote the receipt and use of advanced services by residents of certain enterprise communities or economically distressed areas (colonias).

(8) Insert the following appropriately numbered SECTIONS to the bill to read as follows and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 51.002, Utilities Code, is amended by adding Subdivision (13) to read as follows:

(13) "Economically distressed area (colonia)" means an area that meets the requirements of Section 17.921, Water Code, and that is located within 100 kilometers (62 miles) of an international border.

SECTION _____. Section 57.045(b), Utilities Code, is amended to read as follows:

(b) The board shall prepare an annual report that:

(1) details the revenues deposited to the credit of the fund, including each account; ~~[and]~~

(2) summarizes the grants and loans made from each account; and

(3) summarizes the amount of grants and loans made to communities described by Section 55.4055(a).

(Junell, Heflin, and Gallego now present)

Amendment No. 10

Representatives Chavez, Luna, and Dutton offered the following substitute amendment for Amendment No. 9:

Substitute the following for the Dutton amendment to the Wolens Amendment:

Amend the Wolens amendment to **CSSB 1783** to read as follows:

Amend **CSSB 1783** as follows:

(1) In Subchapter L, Chapter 55, Utilities Code, as added by SECTION 2 of the bill (House Committee Printing, page 7, between lines 23 and 24), insert a new Section 55.4055 to read as follows:

Sec. 55.4055. SUPPORT FOR ADVANCED SERVICES IN CERTAIN COMMUNITIES.

(a) This section applies only to a community located wholly or partly in a:

- (1) federally designated urban enterprise community;
- (2) state designated enterprise zone;
- (3) urban enhanced enterprise community; or
- (4) economically distressed area along the Texas Mexico border, including a colonia.

(b) Notwithstanding Section 55.403, a local elected official of a community described by this section may submit to a provider of advanced services a request for provision of an advanced service to not less than 25 residents of the community who are not receiving an advanced service at the time of the request. The request must include:

- (1) the boundaries of the community;
- (2) whether any area of the community is receiving an advanced service from the provider or from another provider of an advanced service; and
- (3) the name, address, and telephone number of a community contact person.

(c) If the provider notifies the community contact person that the provider does not intend to provide an advanced service to at least the 25 residents of the community who are not receiving an advanced service at the time of the request, and if another provider of advanced service is not providing or specifically offering, as determined by the commission, an advanced service to the residents of the community who are not receiving an advanced service, then a local school district or public library in the community or a local organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986 by being listed under Section 501(c)(3), Internal Revenue Code of 1986 that sponsors a program to promote the receipt and use of advanced services by community residents may apply for a loan or grant under Subchapter C, Chapter 57 to enter into a business arrangement for residents of that community to receive an advanced service from a cable company, fixed wireless company, satellite company, electric cooperative corporation, holder of a certificate of operating authority, service provider of operating authority, or certificate of convenience and necessity or other provider of an advanced service.

(d) A local school district or public library in the community or a local organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986 by being listed under Section 501(c)(3), Internal

Revenue Code of 1986 that sponsors a program to promote the receipt and use of advanced services by community residents may apply for a grant or loan under Subchapter C, Chapter 57, to provide support to such residents for reasonable installation costs associated with the installation of an advanced service from a cable company, fixed wireless company, satellite company, electric cooperative corporation, holder of a certificate of operating authority, service provider of operating authority, or certificate of convenience and necessity, or other provider of an advanced service.

(e) Money from a grant or loan received under Subsections (c) or (d) may not be used to pay for recurring expenses for a resident of the community to receive an advanced service.

(2) In Section 57.046(b)(9), Utilities Code, as added by SECTION 4 of the bill (House Committee Printing, page 12, line 5), strike "; and" and substitute ";\u00b0".

(3) In Section 57.046(b)(10), Utilities Code, as added by SECTION 4 of the bill (House Committee Printing, page 12, line 7), strike the period and substitute the following:
;\u00b0

(11) an advanced service for residents of a community described by Section 55.4055(a).

(4) In Section 57.047(a), Utilities Code, as amended by SECTION 5 of the bill (House Committee Printing, page 12, lines 18-21), strike added Paragraphs (D) and (E) and substitute the following:

(D) community technology centers;

(E) electronic textbooks, Internet-based educational materials, and related training for parents and teachers;

(F) programs to promote the use of advanced services by residents of a community described by Section 55.4055(a); or

(G) an advanced service for a community or sponsoring municipality or county that will use the grant for a purpose prescribed by Section 55.405(a);

(5) Strike Section 57.047(b), Utilities Code, as amended by SECTION 5 of the bill (House Committee Printing, page 13, lines 6-11), and substitute the following:

(b) The board may award a loan to a project or proposal to acquire equipment needed for distance learning, the use of electronic textbooks, Internet-based educational materials, and related training for parents and teachers, [and] telemedicine, or community technology center projects. The board may award a loan to a project or proposal that promotes the receipt and use of advanced services by residents of a community described by Section 55.4055. The board may award a loan to a project or proposal submitted by a community or sponsoring municipality or county to acquire equipment needed for an advanced service project under Section 55.405(a).

(6) In Section 57.047(c)(8)(B), Utilities Code, as amended by SECTION 5 of the bill (House Committee Printing, page 14, line 5), strike ";\u00b0" and substitute ";\u00b0".

(7) In Section 57.047(c)(9), Utilities Code, as added by SECTION 5 of the bill (House Committee Printing, page 14, line 7), strike the period and substitute the following:

; or

(10) will promote the receipt and use of advanced services by residents of certain enterprise communities or economically distressed areas (colonias).

(8) Insert the following appropriately numbered SECTIONS to the bill to read as follows and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 51.002, Utilities Code, is amended by adding Subdivision (13) to read as follows:

(13) "Economically distressed area (colonia)" means an area that meets the requirements of Section 17.921, Water Code, and that is located within 100 kilometers (62 miles) of an international border.

SECTION _____. Section 57.045(b), Utilities Code, is amended to read as follows:

(b) The board shall prepare an annual report that:

(1) details the revenues deposited to the credit of the fund, including each account; ~~and~~

(2) summarizes the grants and loans made from each account; and

(3) summarizes the amount of grants and loans made to communities described by Section 55.4055(a).

Amendment No. 10 was adopted without objection.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 3343**:

Sadler on motion of R. Lewis.

Hochberg on motion of R. Lewis.

Pitts on motion of R. Lewis.

Marchant on motion of R. Lewis.

Tillery on motion of R. Lewis.

CSSB 1783 - (consideration continued)

Representative Wolens moved to table Amendment No. 9, as substituted.

The motion to table was withdrawn.

Amendment No. 9, as substituted, was adopted without objection.

Amendment No. 8, as amended, was adopted without objection.

Amendment No. 11

Representative S. Turner offered the following amendment to **CSSB 1783**:

Amend **CSSB 1783** by adding the following section:

SECTION _____. Subchapter C, Chapter 57, Utilities Code, is amended by adding Section 57.0465 to read as follows:

Sec. 57.0465. PROGRAM TO CONNECT CERTAIN PUBLIC SCHOOL CAMPUSES. (a) The board shall develop and implement a program to award grants and loans to connect to the Internet public school campuses that are not connected to the Internet.

(b) In awarding a grant or loan under this section, the board shall give priority to public school campuses that have a high percentage of at-risk and economically disadvantaged students.

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representative Thompson offered the following amendment to **CSSB 1783**:

Amend **CSSB 1783** by adding a new Section ____ to read as follows and renumbering the subsequent sections appropriately:

SECTION ____ Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.56 to read as follows:

Sec. 35.56. ADVERTISEMENT OF PRICE INFORMATION FOR ADVANCED SERVICES OR TELECOMMUNICATIONS SERVICES.

(a) This section applies to a person who offers to sell or provide to another person in this state advanced services or telecommunications services.

(b) A person described by Subsection (a) may not display or publish, or cause to be displayed or published, a written advertisement that contains pricing information regarding the service and equipment unless the information is printed in at least eight-point type.

(c) A person who violates this section is liable to the state for a civil penalty in an amount not to exceed \$1,000 for each violation and for each day of a continuing violation. The attorney general or the prosecuting attorney in the county in which the violation occurs may bring suit to recover the civil penalty imposed under this section.

(d) The attorney general may bring an action in the name of the state to restrain or enjoin a person from violating this section.

Amendment No. 12 was adopted without objection.

CSSB 1783, as amended, was passed to third reading. (Heflin recorded voting no)

MAJOR STATE CALENDAR SENATE BILLS SECOND READING

The following bills were laid before the house and read second time:

CSSB 311 ON SECOND READING (Gallego - House Sponsor)

CSSB 311, A bill to be entitled An Act relating to the abolition of the General Services Commission; to the transfer of its functions to a newly created Texas Procurement Commission, the Department of Information Resources, and a newly created Texas Building Commission; and to the operations of certain other state agencies having functions transferred from or associated with the commission, including the telecommunications planning and oversight council, the attorney general, and the State Cemetery Committee.

Amendment No. 1

Representative Gallego offered the following amendment to **CSSB 311**:

Amend **CSSB 311** as follows:

(1) In SECTION 1.01 of the bill, in proposed Section 552.0095, Government Code (House Committee Printing, page 1, lines 15 and 16), strike "ATTORNEY GENERAL" and substitute "TEXAS PROCUREMENT COMMISSION".

(2) Strike SECTION 13.02 of the bill (House Committee Printing, page 122, lines 2-10), and renumber subsequent SECTIONS of the bill accordingly.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Gallego offered the following amendment to **CSSB 311**:

Amend **CSSB 311** in SECTION 1.16 of the bill, immediately following proposed Section 2153.013, Government Code (House Committee Printing, page 13, between lines 7 and 8), by inserting the following:

Sec. 2153.014. APPLICABILITY OF SUBTITLE; HISTORICALLY UNDERUTILIZED BUSINESSES. Notwithstanding Section 443.023, the commission and the division are subject to this subtitle, including provisions that relate to small contractor participation assistance programs and to historically underutilized businesses.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Gallego offered the following amendment to **CSSB 311**:

Amend **CSSB 311** in SECTION 2.01 of the bill, in proposed Section 2155.502, Government Code (House Committee Printing, page 33, lines 20-22), by striking proposed Subsection (c) and substituting the following:

(c) The commission may not list a multiple award contract on a schedule developed under this section if the goods or services provided by that contract:

(1) are available from only one vendor; or

(2) are telecommunications services, facilities, or equipment.

(d) In this section, "telecommunications" has the meaning assigned by Section 2054.003.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Dukes offered the following amendment to **CSSB 311**:

Amend **CSSB 311** by striking SECTION 4.18 of the bill (House Committee Printing, page 49, lines 10-20) and substituting the following:

SECTION 4.18. Section 2170.004, Government Code, is amended to read as follows:

Sec. 2170.004. CONTRACTS WITH ENTITIES OTHER THAN STATE AGENCIES. The department [~~commission~~] may contract for use of the consolidated telecommunications system with:

- (1) each house of the legislature;
- (2) a legislative agency;
- (3) an agency that is not a state agency as defined by Section 2151.002; ~~[and]~~
- (4) a political subdivision, including a county, municipality, or district; and
- (5) a private institution of higher education accredited by a recognized accrediting agency, as defined by Section 61.003, Education Code, that:
 - (A) engages in distance learning, as defined by Section 57.021, Utilities Code; and
 - (B) receives federal funds for distance learning initiatives.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Longoria offered the following amendment to **CSSB 311**:

Amend **CSSB 311** between Sections 9.08 and 9.09 (House committee report, page 100, following line 27), by inserting the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS of the article accordingly:

SECTION __. Section 2166.258, Government Code, is amended to read as follows:

Sec. 2166.258. COMMON SURETY OR INSURER. (a) The commission and each ~~[or an]~~ agency whose project is exempted from all or part of this chapter under Section 2166.003 shall jointly or separately enter into a competitively bid contract ~~[may negotiate an arrangement advantageous to the state]~~ with a surety or an insurer, as appropriate, authorized to do business in this state and with experience in surety bond support services, under which the surety or insurer shall aggressively assist historically underutilized businesses and small businesses to obtain the bonds or insurance required to qualify for a contract or subcontract on a project administered by the commission or other agency ~~[to furnish bonds, insurance, or both that a contractor or subcontractor is required to execute or carry to receive a contract or subcontract on a project administered by the commission or other agency].~~

(b) Notwithstanding Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code), the commission and an ~~[or other]~~ agency whose project is exempted from all or part of this chapter under Section 2166.003 shall ~~[may]~~ require a contractor or subcontractor to meet part or all of the bonding or insurance requirements for the project under the contract entered into under Subsection (a) ~~[arrangement negotiated]~~ by the commission or other agency.

(c) A contract under Subsection (a) must:

- (1) be renewed at least once each state fiscal biennium;
- (2) require the surety or insurer to aggressively take steps to furnish assistance for obtaining bonds, insurance, or both to historically underutilized businesses and small businesses; and
- (3) provide that the surety's or insurer's performance under the contract will be evaluated at least in part on the basis of the number of historically

underutilized businesses, small businesses, and other businesses that obtain the required bonds, insurance, or both from the contractor.

(d) The commission or other state agency entering into a contract with a surety or insurer under Subsection (a) shall conduct annual program audits and performance reviews under the contract.

SECTION __. The change in law made by this Act does not affect a contract entered into between a state agency and a surety or an insurer under Section 2166.258, Government Code, that is in force on that date during the term of the contract, but the renewal of the contract must comply with Section 2166.258, Government Code, as amended by this Act.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Wolens offered the following amendment to **CSSB 311**:

Amend **CSSB 311** in SECTION 1.29 of the bill after Subsection (b) (House Committee Printing, page 30, between lines 17 and 18), by inserting the following:

(c) The executive director of the General Services Commission serving on the effective date of this Act becomes an employee of the Texas Procurement Commission as provided by Subsection (a)(3) of this section, but that person does not automatically become the executive director of the Texas Procurement Commission. To become the executive director of the Texas Procurement Commission, that person must apply for the position and the employment in that capacity must be approved by the Texas Procurement Commission.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Noriega offered the following amendment to **CSSB 311**:

Amend **CSSB 311** in SECTION 13.01 as follows:

(1) Strike Subsection (b), Section 2161.061, Government Code (Committee Printing, page 120, line 15 to page 121, line 1), and substitute the following:

(b) As one of its certification procedures, the commission may:

(1) approve the certification program of one or more local governments or nonprofit organizations in this state that certify historically underutilized businesses, minority business enterprises, women's business enterprises, or disadvantaged business enterprises under substantially the same definition, to the extent applicable, used by Section 2161.001, if the local government or nonprofit organization meets or exceeds the standards established by the commission; and

(2) certify a business that is certified by a ~~[under the]~~ local government or by a nonprofit organization ~~[program]~~ as a historically underutilized business under this chapter.

(2) In Subsection (c), Section 2161.061, Government Code (Committee Printing, page 121, lines 6-7), strike "that certify on behalf of local governments" and substitute "The commission may terminate an agreement if a local government or nonprofit organization fails to meet the standards established by the commission for certifying historically underutilized businesses".

(3) In Subsection (c)(1), Section 2161.061, Government Code (Committee Printing, page 121, line 10), strike "certifying on behalf of the local government".

(4) In Subsection (c)(3), Section 2161.061, Government Code (Committee Printing, page 121, lines 17-18), strike "certifying on behalf of the local government".

(Solis in the chair)

Amendment No. 7 was adopted without objection.

Amendment No. 8

Representative Dukes offered the following amendment to **CSSB 311**:

Amend **CSSB 311** in ARTICLE 14 of the bill (House committee printing, page 122, line 25 through page 126, line 26), by adding the following appropriately numbered SECTIONS and renumbering the remaining SECTIONS of the ARTICLE as appropriate:

SECTION _____. Sections 2155.004(a), (d), and (h), Government Code, are amended to read as follows:

(a) A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who participated, to any extent, [received compensation from the agency to participate] in preparing the specifications or request for proposals on which the bid or contract is based.

(d) If a state agency determines that an individual or business entity holding a state contract was ineligible to have the contract accepted or awarded under Subsection (a), ~~[or]~~ (b), or (h), the state agency may immediately terminate the contract without further obligation to the vendor.

(h) A state agency may not accept a bid or award a contract to an individual or business entity that is barred from participating in state contracts under Section 2155.077 ~~[This section does not prohibit a bidder or contract participant from providing free technical assistance to a state agency].~~

SECTION _____. Sections 2155.077(a) and (c), Government Code, are amended to read as follows:

(a) The commission shall ~~[may]~~ bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, for:

(1) substandard performance under a contract with the state or a state agency;

(2) material misrepresentations in a bid or proposal to the state or a state agency or during the course of performing a contract with the state or a state agency;

(3) fraud; ~~[or]~~

(4) breaching a contract with the state, ~~[or]~~ a state agency, or a local government as defined by Section 271.081, Local Government Code; or

(5) misrepresentations to a subcontractor as to the amount and scope of the vendor's participation in previous awards made by the state, a state agency, or a local government as defined by Section 271.081, Local Government Code.

(c) The commission by rule shall:

(1) state generally the reasons for which a vendor will [~~may~~] be barred from participating in state contracts and the periods for which the vendor will [~~may~~] be barred; and

(2) prescribe the procedures under which the commission will determine whether and for how long a vendor will be barred.

SECTION _____. Section 2254.027, Government Code, is amended to read as follows:

Sec. 2254.027. SELECTION OF CONSULTANT. (a) In selecting a consultant, a state agency shall:

(1) base its choice on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services; and

(2) if other considerations are equal, give preference to a consultant whose principal place of business is in the state or who will manage the consulting contract wholly from an office in the state.

(b) A state agency may not select a consultant if the consultant:

(1) breaches a consulting services contract with a political subdivision;

(2) misrepresents the scope of the consultant's participation in a consulting services contract with a state agency or political subdivision; or

(3) participates in a meeting related to an operation or project that results in the consultant being the only bidder, the only respondent, or the sole source provider for a consulting services contract related to that operation or project.

SECTION _____. The change in law made by this Act to Section 2155.004, Government Code, applies only to a contract awarded on or after the effective date of this Act.

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Y. Davis offered the following amendment to **CSSB 311**:

Amend **CSSB 311** in SECTION 9.05 of the bill as follows:

(1) In proposed Section 2166.2531, Government Code (House Committee Printing, page 90, lines 4-8), strike proposed Subsection (b) and substitute the following:

(b) The commission may use the design-build method for a project. In using that method and in entering into a contract for the services of a design-build firm, the commission shall select a design-build firm on the basis of a competitive procurement process.

(2) On page 90, line 16, strike "qualifications" and substitute "bids or proposals".

(3) On page 90, line 19, insert "bids or" between "submitting" and "proposals".

(4) On page 91, line 3, strike "qualifications" and substitute "bids or proposals".

(5) In proposed Section 2166.2531, Government Code (House Committee Printing, page 91, line 5 through page 92, line 18), strike proposed Subsection (f) and reletter subsequent SECTIONS appropriately.

(6) In existing Subsection 2166.2531(g), Government Code, (House Committee Printing, page 92, lines 19 and 20), strike "under Subsection (f).

(7) Strike existing Section 2166.2531(k) (House Committee Printing, page 93, line 15 through page 94, line 1).

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative Hardcastle offered the following amendment to **CSSB 311**:

Amend **CSSB 311** by adding the following appropriately numbered SECTIONS to ARTICLE 14 of the bill and renumbering subsequent SECTIONS in ARTICLE 14 appropriately:

SECTION _____. Subchapter L, Chapter 403, Government Code, is amended by adding Section 403.2731 to read as follows:

Sec. 403.2731. PROPERTY MANAGERS: QUALIFICATIONS AND COMPENSATION. (a) The classification officer shall create within the state's position classification plan under Chapter 654 a classification structure for property managers that effectively establishes a career ladder for state agency property managers. The classification structure for property managers must include at least three levels of classification and be based in part on the certification levels established by the National Property Management Association or by a similar organization that certifies personal property management professionals under comparable certification requirements.

(b) Each state agency that owns at least 50,000 items of personal property shall require at least one of its property managers to be certified by the National Property Management Association or by a similar organization that certifies personal property management professionals under comparable certification requirements.

SECTION _____. Each state agency subject to Section 403.2731(b), Government Code, as added by this Act, shall comply with the requirements of that law by not later than August 31, 2002.

Amendment No. 10 was adopted without objection.

Amendment No. 11

Representative Gallego offered the following amendment to **CSSB 311**:

Amend **CSSB 311** in SECTION 7.06 of the bill, in redesignated Section 2177.102 (f), Government code (House Committee Printing, page 77, line 11), by striking "commission and substituting "department".

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representative Isett offered the following amendment to **CSSB 311**:

Amend **CSSB 311** (House Committee Printing) as follows:

(1) In Section 5.01 of the bill, in added Section 2262.002, Government Code, strike proposed Subsection (b) (page 58, lines 23-25) and substitute the following:

(b) This chapter does not apply to contracts of the Texas Department of Transportation that relate to highway construction or highway engineering.

(2) In Section 5.01 of the bill, in added Subsection (f), Section 2262.051, Government Code (page 60, line 6), strike "or execute the contract".

(3) In Section 5.05 of the bill, in Subsection (b)(1) (page 65, line 8), between "all" and "major", insert "unexpired".

(4) After Section 5.05 of the bill (Page 65, between lines 14 and 15), insert:

(d) This section does not apply to contracts of the Texas Department of Transportation that relate to highway construction or highway engineering.

Amendment No. 12 was adopted without objection.

Amendment No. 13

Representative Burnam offered the following amendment to **CSSB 311**:

Amend **CSSB 311** (House Committee Printing) as follows:

(1) In Article 14 of the bill, insert appropriately numbered sections:

SECTION 14.____. Subchapter A, Chapter 2155, Government Code, is amended by adding Section 2155.0045 to read as follows:

Sec. 2155.0045. BIDS OR CONTRACTS FOR GOODS MADE BY CHILD OR FORCED LABOR PROHIBITED. (a) In this section:

(1) "Child" means an individual younger than 14 years of age.

(2) "Forced labor" means labor performed by an individual whose free will to perform the labor has been denied through violence or the threat of violence. The term does not include convict labor that occurs in any state in the United States.

(b) A vendor who contracts with the state may not make or enter into, and a state agency may not accept or enter into, a bid or contract for goods created in whole or in part by child or forced labor.

(c) A state agency may not accept a bid or award a contract for goods unless the bidder or contractor certifies in the bid or contract that the bidder or contractor, each person represented by the bidder or contractor, and each person acting for the represented person has not used, in the making of the goods, any child labor or forced labor.

(d) The bid or contract must include the following statement: "Under Section 2155.0045, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is eligible to receive the specified bid or contract and agrees that this contract may be terminated and payment withheld if this certification is inaccurate."

(e) A bid made, or a contract entered into, that violates this section is void as against public policy.

SECTION 14.____. Section 2155.0045, Government Code, as added by this article takes effect September 1, 2001, and applies only to a bid or contract that is made or entered into on or after that date. A bid or contract that is made or entered into before September 1, 2001, is governed by the law as it existed immediately before September 1, 2001, and that law is continued in effect for that purpose.

(2) Renumber the sections of the bill accordingly.

Amendment No. 13 was adopted.

Amendment No. 14

Representatives Puente, Longoria, and Menendez offered the following amendment to **CSSB 311**:

Amend **CSSB 311** between Articles 14 and 15 (House committee report, page 126, between lines 26 and 27), by adding the following appropriately numbered **SECTIONS** and renumbering the subsequent **SECTIONS** of the article accordingly:

SECTION ____. Section 2155.074(b), Government Code, is amended to read as follows:

(b) In determining the best value for the state, the purchase price, ~~[and] whether the goods or services meet specifications, and the vendor's anticipated economic impact on the state, including sales, ad valorem tax revenue, franchise tax revenue, and any gain or loss of jobs,~~ are the most important considerations. However, the commission or other state agency may, subject to Subsection (c) and Section 2155.075, consider other relevant factors, including:

- (1) installation costs;
- (2) life cycle costs;
- (3) the quality and reliability of the goods and services;
- (4) the delivery terms;
- (5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;
- (6) the cost of any employee training associated with a purchase;
- (7) the effect of a purchase on agency productivity; and
- (8) other factors relevant to determining the best value for the state in the context of a particular purchase.

SECTION ____. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.4439 to read as follows:

Sec. 2155.4439. PREFERENCE TO TEXAS BIDDERS. (a) The commission and all state agencies procuring goods or services may give preference to a Texas bidder.

(b) In the event of a conflict between this section and Section 2252.002, this section controls.

(c) In this section, "Texas bidder" means a bidder whose principal place of business is in this state, provided that a permanently staffed, full-time office is maintained at the place of business and provided that principal decision-makers of the bidder conduct the daily affairs of the bidder at the place of business. The mere presence of an employee or representative does not establish a location as the principal place of business.

SECTION ____. Section 466.105(a), Government Code, is amended to read as follows:

(a) A contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the lottery is not subject to:

- (1) Chapter 2054 or 2254; or
- (2) Subtitle D, Title 10, except that Sections 2155.074 and 2155.4439 apply to the contract.

SECTION ____. Sections 2155.444(a) and (b), Government Code, are amended to read as follows:

(a) Except as provided under Section 2155.4439, the [The] commission and all state agencies making purchases of goods, including agricultural

products, shall give preference to those produced or grown in this state or offered by Texas bidders as follows:

(1) goods produced in this state or offered by Texas bidders shall equally be given preference if the cost to the state and quality are equal; and

(2) agricultural products grown in this state shall be given first preference and agricultural products offered by Texas bidders shall be given second preference, if the cost to the state and quality are equal.

(b) Except as provided under Section 2155.4439, if [H] goods, including agricultural products, produced or grown in this state or offered by Texas bidders are not equal in cost and quality to other products, then goods, including agricultural products, produced or grown in other states of the United States shall be given preference over foreign products if the cost to the state and quality are equal.

Amendment No. 15

Representative Alexander offered the following amendment to Amendment No. 14:

Amend the Puente amendment to **CSSB 311** as follows:

(1) In amended Section 2155.074(b), Government Code, between "(b)" and "In" (page 1, line 7, floor amendment), insert "This subsection does not apply to the Texas Department of Transportation.".

(2) In added Section 2155.4439(a), Government Code, between "agencies" and "procuring" (page 2, line 5, floor amendment), insert ", excluding the Texas Department of Transportation.".

(3) In amended Section 2155.444(a), Government Code, between "agencies" and "making" (page 2, line 27, floor amendment), insert ", excluding the Texas Department of Transportation.".

Amendment No. 15 was adopted without objection.

Amendment No. 14, as amended, was adopted without objection.

Amendment No. 16

On behalf of Representative Solis, Representative Gallego offered the following amendment to **CSSB 311**:

Amend **CSSB 311** by adding the following SECTION, appropriately numbered, to Article 14 of the bill and renumbering the subsequent SECTIONS of Article 14 of the bill appropriately:

SECTION __. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.449 to read as follows:

Sec. 2155.449. PREFERENCE TO PRODUCTS AND SERVICES FROM ECONOMICALLY DEPRESSED OR BLIGHTED AREA. (a) In this section, "economically depressed or blighted area" means an area that:

(1) is an economically depressed or blighted area as defined by Section 2306.004; or

(2) meets the definition of a historically underutilized business zone as defined by 15 U.S.C. Section 632(p).

(b) The commission and all state agencies procuring goods or services shall give preference to goods or services produced in an economically depressed or blighted area if:

(1) the goods or services meet state specifications regarding quantity and quality; and

(2) the cost of the good or service does not exceed the cost of other similar products or services that are not produced in an economically depressed or blighted area.

Amendment No. 16 was adopted without objection.

(Speaker in the chair)

Amendment No. 17

Representative B. Turner offered the following amendment to **CSSB 311**:

Amend **CSSB 311** by adding the following SECTION, appropriately numbered, to Article 14 of the bill and renumbering the subsequent SECTIONS of Article 14 of the bill appropriately:

SECTION __. Section 2157.0611, Government Code, is amended to read as follows:

Sec. 2157.0611. **SOLICITATION OF [REQUIREMENT TO EVALUATE THREE] PROPOSALS [WHEN POSSIBLE].** (a) A catalogue purchase or lease that exceeds \$2,000 or a greater amount prescribed by commission rule shall, when possible, be based on an evaluation of at least three catalogue proposals made to the commission or other state agency by qualified information systems vendors. If at least three catalogue proposals are not evaluated by the commission or other state agency before a purchase or lease that exceeds the threshold amount is made, the commission or other agency shall document the reasons for that fact before making the purchase or lease under Section 2157.063.

(b) Before a state agency solicits proposals under Subsection (a), a state agency must determine in writing that:

(1) the commission or the Department of Information Resources does not have a current contract for the needed goods or services; or

(2) if the commission or the Department of Information Resources has a current contract for the needed goods or services, a proposal solicitation under Subsection (a) will result in a cost savings to the state of at least 10 percent more than use of the commission's or department's contract.

(c) If a state agency makes the finding in Subsection (b)(2) and a proposal solicitation under Subsection (a) does not result in a cost savings to the state of 10 percent, the state agency may not make a contract award based on the proposal solicitation.

Amendment No. 17 was adopted without objection.

Amendment No. 18

Representative Merritt offered the following amendment to **CSSB 311**:

Amend **CSSB 311** in ARTICLE 9 by adding the following SECTION to the bill, appropriately numbered, and renumbering the subsequent SECTIONS of the article appropriately:

SECTION __. Subchapter A, Chapter 2166, Government Code, is amended by adding Section 2166.008 to read as follows:

Sec. 2166.008. CONSTRUCTION PREFERENCES. The commission shall give preference to a proposed state contractor in awarding contracts under this chapter, including contracts for services related to contracts under this chapter, if the contractor:

(1) is qualified under the OSHA V.P.P (Voluntary Protection Program);

(2) has a qualified drug-free workplace policy that includes a random drug testing policy;

(3) has a work-site non-smoking policy for employees; or

(4) has an experience modifier rate of one or less assigned by the Texas Worker's Compensation Commission.

Amendment No. 18 failed of adoption.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

CSSB 311 - (consideration continued)

Amendment No. 19

Representative Merritt offered the following amendment to **CSSB 311**:

Amend **CSSB 311** by adding the following SECTION, appropriately numbered, to Article 14 of the bill and renumbering the subsequent SECTIONS of Article 14 of the bill appropriately:

SECTION ____ Subchapter Z, Chapter 2252, Government Code, is amended by adding Section 2252.902 to read as follows:

Sec. 2252.902. INDEMNIFICATION. A contractor with the state may not require a subcontractor under the state contract to indemnify or hold harmless the contractor for claims or liabilities resulting from the negligent acts or omissions of the contractor or the contractor's employees.

Amendment No. 19 was adopted.

Amendment No. 20

Representative Gallego offered the following amendment to **CSSB 311**:

Amend **CSSB 311** (House Committee Printing) as follows:

(1) In Article 14 of the bill, insert the following appropriately numbered sections:

SECTION 14____. Subdivision (1), Section 2258.001, Government Code, is amended to read as follows:

(1) "Locality in which the work is performed" means:

(A) for a contract for a public work awarded by the state, the political subdivision of the state in which the public work is located;

(i) [,] which may include a county, municipality, county and municipality, or district, except as provided by Subparagraph (ii); and

(ii) which, in a municipality with a population of 500,000 or more, may only include the geographic limits of the municipality;
or

(B) for a contract for a public work awarded by a political subdivision of the state, the geographical limits of the political subdivision.

SECTION 14.____. Section 2258.022, Government Code, is amended to read as follows:

Sec. 2258.022. DETERMINATION OF PREVAILING WAGE RATES.

(a) For a contract for a public work awarded by a political subdivision of the state, the [A] public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work by:

(1) conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the political subdivision of the state in which the public work is to be performed; or

(2) using the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments, if the survey used to determine that rate was conducted within a three-year period preceding the date the public body calls for bids for the public work.

(b) For a contract for a public work awarded by the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work as follows. The public body shall conduct a survey of the wages received by classes of workers employed on projects of a character similar to the contract work both statewide and in the political subdivision of the state in which the public work is to be performed. The public body shall also consider the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments, but only if the survey used to determine that rate was conducted within a three-year period preceding the date the public body calls for bids for the public work. The public body shall determine the general prevailing rate of per diem wages in the locality based on the higher of:

(1) the rate determined from the survey conducted in the political subdivision;

(2) the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined from the statewide survey; and

(3) if applicable, the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined by the United States Department of Labor.

(c) The public body shall determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents.

(d) [(e)] A public body shall specify in the call for bids for the contract and in the contract itself the wage rates determined under this section.

(e) [(d)] The public body's determination of the general prevailing rate of per diem wages is final.

SECTION 14.____. The changes made to Sections 2258.001 and 2258.022,

Government Code, by this article, take effect September 1, 2001. The changes made apply only to determining the general prevailing rate of per diem wages in connection with a contract for constructing a public work awarded by the state if the state first requests bids or proposals for its contract on or after that date.

(2) Renumber the sections of the bill accordingly.

Amendment No. 20 was adopted. (Y. Davis, Dukes, Hamric, Luna, Talton, and Woolley recorded voting no)

Amendment No. 21

Representatives S. Turner, Longoria, and Flores offered the following amendment to **CSSB 311**:

Amend **CSSB 311** by adding the following SECTION, appropriately numbered, to Article 14 of the bill and renumbering the subsequent SECTIONS of the Article 14 of the bill appropriately:

SECTION _____. None of the changes in law made by this Act are intended to weaken provisions of law favorable to small business or historically underutilized businesses. None of the changes in law made by this Act may be construed in such a way as to weaken provisions of law favorable to small businesses or historically underutilized businesses.

Amendment No. 21 was adopted without objection.

Amendment No. 22

Representative Bosse offered the following amendment to **CSSB 311**:

Amend **CSSB 311** by adding the following SECTIONS, appropriately numbered, at the end of Article 14 (House Committee Printing, page 126, between lines 26 and 27), and renumbering the subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 2260.002, Government Code, is amended to read as follows:

Sec. 2260.002. **APPLICABILITY.** This chapter does not apply to:

(1) a claim for personal injury or wrongful death arising from the breach of a contract; or

(2) a contract executed or awarded on or before August 30, 1999.

SECTION _____. Section 2260.003(a), Government Code, is amended to read as follows:

(a) The total amount of money recoverable on a claim for breach of contract under this chapter may not, after deducting the amount specified in Subsection (b), exceed an amount equal to the sum of:

(1) the balance due and owing on the contract price; and

(2) the amount or fair market value of orders or requests [; including orders] for additional work made by a unit of state government to the extent that the orders or requests for additional work were actually performed.

SECTION _____. Section 2260.005, Government Code, is amended to read as follows:

Sec. 2260.005. **EXCLUSIVE PROCEDURE.** Subject to Section 2260.007, the [The] procedures contained in this chapter are exclusive and required

prerequisites to suit in accordance with Chapter 107, Civil Practice and Remedies Code.

SECTION _____. Subchapter A, Chapter 2260, Government Code, is amended by adding Section 2260.007 to read as follows:

Sec. 2260.007. LEGISLATIVE PERMISSION TO SUE. (a) Notwithstanding Section 2260.005, the legislature retains the authority to deny or grant a waiver of immunity to suit against a unit of state government by statute, resolution, or any other means the legislature may determine appropriate.

(b) This chapter does not and may not be interpreted to:

(1) divest the legislature of the authority to grant permission to sue a unit of state government on the terms, conditions, and procedures that the legislature may specify in the measure granting the permission;

(2) require that the legislature, in granting or denying permission to sue a unit of state government, comply with this chapter; or

(3) limit in any way the effect of a legislative grant of permission to sue a unit of state government unless the grant itself provides that this chapter may have that effect.

SECTION _____. Except for Section 2260.002(2), Government Code, as amended by this Act, which applies according to its own terms, the changes in law made by this article to Chapter 2260, Government Code, apply only to a contract executed on or after the effective date of this Act. A contract executed before the effective date of this Act is governed by the law applicable to the contract immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 22 was adopted without objection.

Amendment No. 23

Representative Y. Davis offered the following amendment to **CSSB 311**:

Amend **CSSB 311** in SECTION 5.01 of the bill by striking proposed Section 2262.002, Government Code (House Committee Printing, page 58, lines 20-25).

Amendment No. 23 was adopted.

CSSB 311, as amended, was passed to third reading. (Hope, Howard, and Williams recorded voting no)

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 1590 ON SECOND READING **(Naishtat - House Sponsor)**

SB 1590, A bill to be entitled An Act relating to the admissibility of evidence relating to certain Texas Department of Human Services investigations or surveys in certain actions or proceedings.

SB 1590 was read second time on May 17, postponed until May 21, and was again postponed until this time.

Representative Naishtat moved to postpone consideration of **SB 1590** until 6 p.m. today.

The motion prevailed without objection.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Y. Davis requested permission for the Committee on Local and Consent Calendars to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Local and Consent Calendars, 5 p.m. today, speakers committee room, for a formal meeting.

CSSB 309 ON SECOND READING (Bosse - House Sponsor)

CSSB 309, A bill to be entitled An Act relating to the application of the sunset review process to certain governmental entities.

CSSB 309 was read second time on May 18, postponed until May 21, postponed until earlier today, and was again postponed until this time.

Representative Bosse moved to postpone consideration of **CSSB 309** until 5 p.m. today.

The motion prevailed without objection.

MAJOR STATE CALENDAR (consideration continued)

CSSB 322 ON SECOND READING (Gallego - House Sponsor)

CSSB 322, A bill to be entitled An Act relating to the continuation and functions of the Texas Department of Housing and Community Affairs and to other matters relating to housing or community development, including the creation of the Manufactured Housing Board and the Office of Rural Community Affairs; providing a penalty.

Amendment No. 1

Representative Gallego offered the following amendment to **CSSB 322**:

Amend **CSSB 322** as follows:

- (1) On page 15, line 21, strike "board" and substitute "department";
- (2) On Page 63, Line 2, between "investigation" and "pending" insert "relating to the administration and enforcement of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes)."

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Gallego offered the following amendment to **CSSB 322**:

Amend **CSSB 322** (House Committee Printing) as follows:

(1) On Page 29, line 2, strike the words "administer, as appropriate" and substitute the words, "Provide appropriate information regarding".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative S. Turner offered the following amendment to **CSSB 322**:

Amend **CSSB 322** by inserting the following new subsection (17) on page 30, between lines 14 and 15 to read as follows and renumber the following sections appropriately:

"(17) provide in cooperation with the State Energy Conservation Office, the Texas Natural Resource Conservation Commission and other governmental entities, information on the use of sustainable and energy efficient housing construction products and assist local governments and nonprofits in identifying information on sustainable and energy efficient housing construction and energy efficient resources and techniques."

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Pickett offered the following amendment to **CSSB 322**:

Amend **CSSB 322** in Article 1 of the bill by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION __. (a) Section 2306.255(b), Government Code, is amended to read as follows:

(b) The office shall establish a program to guarantee loans made by private lenders to convert a contract for deed into a warranty deed. To the extent possible, the office shall encourage conversion of a contract for deed under the program into a general warranty deed.

(b) The change in law made by this section applies only to a contract for deed that is converted into a warranty deed on or after the effective date of this Act.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Capelo offered the following amendment to **CSSB 322**:

Amend **CSSB 322** as follows:

Delete Sec. 2306.6722, page 130, lines 16 through 20, and replace with the following:

Sec. 2306.6722. DEVELOPMENT ACCESSIBILITY AND AUTHORIZING A MUNICIPALITY TO IMPOSE CERTAIN FEES FOR DISABLED ACCESSIBILITY IMPROVEMENTS.

(1) Any development supported with a housing tax credit allocation shall comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C.

(2) A municipality each year may by ordinance add a fee for a period not exceeding one year to the utility bill issued by a municipally owned utility system containing one or more utilities. The fee:

(a) may not exceed \$1 each month;

(b) shall be paid at an interval determined by the governing body of the municipality; and

(c) shall be described on the bill as "City ADA fee."

(3) The municipality shall deposit in a special account the fees collected under this section. Funds in the account may be used only by the municipality to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and Section 504 Rehabilitation Act of 1973 (29 U.S.C. Section 794) and specified under 24 C.F.R. Part 8, Subpart C, in providing:

(a) construction and rehabilitation of accessibility improvements to both single family and multifamily housing;

(b) construction and maintenance of accessible street and sidewalk improvements, including curb cuts and auditory alarms at crosswalks; and

(c) construction and maintenance of accessible municipal parks and municipal park improvements

Representative Carter raised a point of order against further consideration of Amendment No. 5 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The point of order was withdrawn.

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Chisum offered the following amendment to **CSSB 322**:

Amend **CSSB 322** (house committee report) as follows:

(1) In Article 10 of the bill, strike SECTION 10.01 (page 143, line 13 through page 144, line 14) and renumber subsequent SECTIONS accordingly.

(2) In Article 10 of the bill, strike SECTION 10.10 (page 152, lines 6-15) and renumber subsequent SECTIONS accordingly.

Representative Carter moved to table Amendment No. 6.

The motion to table prevailed.

(Coleman now present)

Amendment No. 7

Representative Averitt offered the following amendment to **CSSB 322**:

Amend **CSSB 322** by adding the following appropriately numbered SECTION to ARTICLE 10 of the bill and renumbering subsequent SECTIONS in ARTICLE 10 appropriately:

SECTION _____. Section 1372.033, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The board shall grant a reservation to an issuer described by Subsection (a) in an amount not to exceed the lesser of:

(1) \$35 million;

(2) the full amount of the state ceiling for qualified student loan bonds for which the issuer applied; or

(3) the amount of the state ceiling for qualified student loan bonds remaining after reservations have been granted to issuers with a higher priority under Subsection (a).

(d) Notwithstanding Subsection (c)(1) or Section 1372.037(5), after each issuer described by Subsection (a) that applies for a reservation has been offered a reservation in the maximum amount available to the issuer, the board shall grant in equal portions, as additional reservations, any remaining amount of the state ceiling for qualified student loan bonds to issuers that:

(1) received and accepted a reservation; and

(2) do not refuse an additional reservation under this subsection.

Amendment No. 7 was adopted without objection.

Amendment No. 8

Representative Hill offered the following amendment to **CSSB 322**:

Amend **CSSB 322** (House Committee Report) by adding the following sections and by renumbering existing sections of the bill accordingly:

SECTION 1. Section 15.001, Water Code, is amended by adding Subdivision (12) to read as follows:

(12) "Nonborder colonia" means a residential community:

(A) located in an unincorporated area of a county all parts of which are at least 150 miles from the international border of this state;

(B) in which water or wastewater services are inadequate to meet minimal needs of residential users as defined by board rules; and

(C) in which the average household income is less than the average household income for the county in which the community is located.

SECTION 2. Section 15.008, Water Code, is amended to read as follows:

Sec. 15.008. GRANT STANDARDS. Chapter 783, Government Code, [The Uniform Grant and Contract Management Act of 1981 (Article 4413(32g), Vernon's Texas Civil Statutes)] does not apply to a contract under Subchapter F, H, or K or to a contract relating to an economically distressed area or nonborder colonia under Subchapter C [of this chapter].

SECTION 3. Section 15.102(b), Water Code, is amended to read as follows:

(b) The loan fund may also be used by the board to provide grants or loans for projects that include supplying water and wastewater services in economically distressed areas or nonborder colonias as provided by legislative appropriations, this chapter, and board rules, including projects involving retail distribution of those services.

SECTION 4. Section 15.105, Water Code, is amended to read as follows:

Sec. 15.105. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application for financial assistance from the loan fund, the board shall consider but is not limited to:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the applicant from all sources for the ultimate repayment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs;

(4) the ability of the applicant to finance the project without state assistance; and

(5) for applications for grants or loans for economically distressed areas or nonborder colonias, the regulatory efforts by the county in which the project is located to control the construction of subdivisions that lack basic utility services.

SECTION 5. Section 775.001, Government Code, is amended by adding Subdivision (3) to read as follows:

(3) "Nonborder colonia" has the meaning assigned by Section 15.01, Water Code.

SECTION 6. Section 775.002(c), Government Code, is amended to read as follows:

(c) The colonia initiatives coordinator may work with the other agencies and local officials involved in colonia projects in the state to:

(1) coordinate efforts to address colonia issues;

(2) identify nonprofit self-help groups to help with colonia initiatives;

(3) set goals for each state fiscal year for colonia initiatives in the state, including goals to:

(A) address easement problems; and

(B) ensure that water and wastewater connections are extended from distribution lines to houses located in colonias; ~~and~~

(4) ensure that the goals set under this subsection are met each state fiscal year; and

(5) coordinate state outreach efforts to nonborder colonias and to political subdivisions capable of providing water and wastewater services to nonborder colonias.

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Garcia offered the following amendment to **CSSB 322**:

Amend **CSSB 322** by adding the following appropriately numbered section to the bill and renumbering the subsequent sections of the bill appropriately:

SECTION _____. Subchapter F, Chapter 2306, Government Code, is amended by adding Section 2306.127 to read as follows:

Sec. 2306.127. PRIORITY FOR CERTAIN COMMUNITIES. The department shall give priority in administering department programs and funding to communities that are located wholly or partly in:

(1) a federally designated urban enterprise community;

(2) an urban enhanced enterprise community; or

(3) an economically distressed area or colonia.

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative Hodge offered the following amendment to **CSSB 322**:

Amend **CSSB 322** (house committee report) in Article 8 of the bill as follows:

(1) In added Section 2306.6703(1)(B), Government Code (page 110, line 2), between "programs" and the comma, insert ", the director of compliance, the director of underwriting".

(2) In added Section 2306.6733(a), Government Code (page 138, line 11), between "programs" and the comma, insert ", director of compliance, director of underwriting".

Amendment No. 10 was adopted without objection.

CSSB 322, as amended, was passed to third reading.

CSSB 409 ON SECOND READING
(Bosse - House Sponsor)

CSSB 409, A bill to be entitled An Act relating to the powers and duties of the Texas Turnpike Authority division of the Texas Department of Transportation, including the power of eminent domain, and to the abolishment of the board of directors of that division.

Amendment No. 1

On behalf of Representative Alexander, Representative Bosse offered the following amendment to **CSSB 409**:

Amend **CSSB 409** as follows:

(1) Strike SECTIONS 3, 4, 18, and 19 of the bill and renumber the subsequent sections accordingly.

(2) Add the following appropriately numbered SECTION to the bill and renumber the subsequent sections accordingly:

"SECTION ___. Subchapter A, Chapter 361, Transportation Code, is amended by adding Section 361.005 to read as follows:

Sec. 361.005. TRANSFER OF BOARD'S POWERS AND DUTIES. (a) The powers and duties of the board under this chapter or other law are transferred to the commission.

(b) A reference in law to the board is a reference to the commission."

(3) Add the following appropriately numbered SECTION to the bill and renumber the subsequent sections accordingly:

"SECTION ___. Section 361.031(b)-(e), Section 361.031(g), Sections 361.032-361.037, 362.004, and 362.005, Transportation Code, are repealed."

(4) Strike SECTION 21 of the bill and substitute the following:

"SECTION 21. This Act takes effect September 1, 2001."

Amendment No. 1 was adopted without objection.

CSSB 409, as amended, was passed to third reading.

CSSB 512 ON SECOND READING
(Gallego and Keel - House Sponsors)

CSSB 512, A bill to be entitled An Act relating to the investment and management of the permanent school fund.

Amendment No. 1

Representative Gallego offered the following amendment to **CSSB 512**:

Amend **CSSB 512** (house committee report) as follows:

(1) In SECTION 1.16 of the bill (page 15, line 17), strike "March 1, 2002" and substitute "December 1, 2001".

(2) In SECTION 1.17 of the bill (page 15, line 24), strike "January 1, 2002" and substitute "September 1, 2001".

(3) In SECTION 1.18 of the bill (page 15, line 25), strike "March 1, 2002" and substitute "December 1, 2001".

(4) In SECTION 1.19 of the bill (page 16, line 2), strike "March 1, 2002" and substitute "December 1, 2001".

(5) In SECTION 1.20 of the bill (page 16, line 8), strike "March 1, 2002" and substitute "December 1, 2001".

(6) In SECTION 1.21 of the bill (page 16, line 15), strike "September 1, 2002" and substitute "September 1, 2001".

(Telford in the chair)

Representative Shields raised a point of order against further consideration of **CSSB 512** under Article III, Section 35 of the Texas Constitution, and Rule 11, Section 9(a) of the House Rules on the grounds that the caption of the bill had been changed before all other amendments had been adopted and that the caption did not reflect that the bill contained penalties when, in fact, the bill did.

The chair overruled the point of order.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 33).

CSSB 512 - (consideration continued)

Representative Delisi raised a point of order against further consideration of **CSSB 512** under Article VII, Section 5(d) of the Texas Constitution on the grounds that the constitution requires the assets of the permanent school fund to be managed by the State Board of Education and the bill would delegate that authority in violation of the constitution

The chair overruled the point of order.

Amendment No. 1 was adopted without objection.

(Marchant now present)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

CSSB 512 - (consideration continued)

A record vote was requested.

CSSB 512, as amended, was passed to third reading by (Record 502): 76 Yeas, 64 Nays, 2 Present, not voting.

Yeas — Alexander; Averitt; Bailey; Bosse; Brimer; Burnam; Capelo; Chavez; Coleman; Cook; Counts; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Geren; Glaze; Gray; Gutierrez; Haggerty; Hardcastle; Hawley; Hinojosa; Hodge; Homer; Hopson; Jones, D.; Jones, J.; Junell; Keel; King, T.; Kitchen; Lewis, G.; Lewis, R.; Luna; Maxey; McClendon; McReynolds; Menendez; Moreno, J.; Naishtat; Najera; Noriega; Olivo; Pickett; Puente; Ramsay; Rangel; Reyna, A.; Ritter; Salinas; Smith; Solis; Thompson; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Wilson; Wise; Wolens; Yarbrough; Zbraneck.

Nays — Allen; Berman; Bonnen; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Corte; Crabb; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Elkins; George; Giddings; Goodman; Goolsby; Green; Grusendorf; Hamric; Hartnett; Heflin; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, E.; Keffer; King, P.; Kolkhorst; Krusee; Kuempel; Longoria; Madden; Marchant; Martinez Fischer; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Raymond; Reyna, E.; Seaman; Shields; Smithee; Solomons; Swinford; Talton; Truitt; Williams; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker; Telford(C).

Absent, Excused — Hilbert; Hochberg; Pitts; Sadler; Tillery; West.

Absent — Moreno, P.; Oliveira.

STATEMENT OF VOTE

I was shown voting no on Record No. 502. I intended to vote yes.

Janek

(Pitts now present)

SB 1654 ON SECOND READING (Dunnam - House Sponsor)

SB 1654. A bill to be entitled An Act relating to the provision of defense counsel to insureds by liability insurers; providing a civil penalty.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Bosse, Representative Dunnam offered the following committee amendment to **SB 1654**:

Amend **SB 1654** as follows:

- (1) by striking on page 3, line 1 the words "or suggest"
- (2) by striking on page 3, line 2 the words "should or must" and inserting the word "to".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Dunnam offered the following amendment to **SB 1654**:

Amend **SB 1654** in SECTION 1 of the bill in added Subsection (b), Section 104.006, Insurance Code, by striking "shall" and substituting "may" (house committee printing, page 4, line 14).

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Smithee offered the following amendment to **SB 1654**:

Amend **SB 1654** (house committee printing) as follows:

(1) Strike added Section 104.003, Insurance Code (page 2, lines 13-26, page 3, lines 1-7), and substitute the following:

Sec. 104.003. SUPREME COURT RULEMAKING AUTHORITY. The supreme court shall, after public notice, adopt ethical guidelines relating to litigation management guidelines between an insurer and a defense counsel. The guidelines shall cover:

(1) the counsel's duty of loyalty to the insured;

(2) the counsel's duty to exercise independent professional judgment;

and

(3) the attorney-client relationship between the counsel and the insured.

(2) In added Subsection (a), Section 104.004, Insurance Code, between "that violates" and "Section 104.003" (page 3, line 10), insert "a guideline adopted by the supreme court under".

(3) In added Subsection (b), Section 104.004, Insurance Code, between "a provision of" and "Section 104.003" (page 3, line 12), insert "the guidelines adopted by the supreme court under".

(4) In added Subsection (c), Section 104.004, Insurance Code, between "violates" and "Section 104.003" (page 3, line 15), insert "a guideline adopted by the supreme court under".

(5) In added Subsection (a), Section 104.005, Insurance Code, strike "an insurer" and substitute "a person who violates or induces another person to violate a guideline adopted by the supreme court under Section 104.003" (page 3, line 18).

(6) In added Subdivision (1), Subsection (a), Section 104.005, Insurance Code, strike "a violation of Section 104.003" and substitute "the violation" (page 3, line 20).

(7) In added Subdivision (2), Subsection (a), Section 104.005, Insurance Code, between "violation of" and "Section 104.003", insert "a guideline adopted by the supreme court under" (page 3, line 22).

(8) In added Subsection (b), Section 104.005, Insurance Code, strike "this chapter" and substitute "a guideline adopted by the supreme court under Section 104.003" (page 3, line 24).

(9) In added Section 104.006, Insurance Code, between "violates" and "Section 104.003", insert "a guideline adopted by the supreme court under" (page 4, lines 6-7).

(Speaker in the chair)

Representative Dunnam moved to table Amendment No. 3.

Representative Goodman raised a point of order against further consideration of Amendment No. 3 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The point of order was withdrawn.

The motion to table was withdrawn.

Amendment No. 3 was withdrawn.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 5).

SB 1654 - (consideration continued)

Representative Clark raised a point of order against further consideration of **SB 1654** under Rule 4, Section 18(a)(3) and Rule 4, Section 39 of the House Rules on the grounds that the minutes for the May 17 meeting of the Committee on Civil Practices indicates that the committee reported the bill as amended, when Section 39 of Rule 4 prohibits a committee from amending a bill, and therefore the minutes do not contain an accurate record of the vote taken on the bill.

The speaker overruled the point of order.

(Tillery and Hochberg now present)

A record vote was requested.

SB 1654, as amended, was passed to third reading by (Record 503): 77 Yeas, 67 Nays, 1 Present, not voting.

Yeas — Bailey; Bonnen; Bosse; Burnam; Capelo; Chavez; Coleman; Cook; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farrar; Flores; Gallego; Garcia; Geren; Giddings; Glaze; Goodman; Gray; Hardcastle; Hartnett; Hawley; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Jones, J.; King, P.; Kitchen; Kolkhorst; Longoria; Luna; Martinez Fischer; Maxey; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Puente; Rangel; Raymond; Reyna, A.; Ritter; Salinas; Solis; Solomons; Telford; Thompson; Tillery; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Alexander; Allen; Averitt; Berman; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Corte; Counts; Crabb; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Ehrhardt; Elkins; Ellis; Farabee; George; Goolsby; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Heflin; Hilderbran; Hill; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Junell; Keel; Keffer; King, T.; Krusee; Kuempel; Lewis, G.; Madden; Marchant; McCall; Miller; Mowery; Pitts; Ramsay; Reyna, E.; Seaman; Shields; Smith; Smithee; Swinford; Talton; Truitt; Turner, B.; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Sadler; West.

Absent — Lewis, R.; Oliveira.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 503. I intended to vote no.

Hawley

When Record No. 503 was taken, I was in the house but away from my desk. I would have voted yes.

R. Lewis

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSSB 309 ON SECOND READING (Bosse - House Sponsor)

CSSB 309, A bill to be entitled An Act relating to the application of the sunset review process to certain governmental entities.

CSSB 309 was read second time on May 18, postponed until May 21, postponed until earlier today, and was again postponed until this time.

Amendment No. 1

Representative Bosse offered the following amendment to **CSSB 309**:

Amend **CSSB 309** (House committee printing) in ARTICLE 5 of the bill by adding SECTION 5.02 to read as follows:

SECTION 5.02. TEXAS DEPARTMENT OF HEALTH. Chapter 11, Health and Safety Code, is amended by adding Section 11.0031 to read as follows:

Sec. 11.0031. SPECIAL PURPOSE SUNSET REVIEW. (a) During the period in which the Sunset Advisory Commission performs its duties under Chapter 325, Government Code, in preparing for a report to the 78th Legislature, the commission shall perform a special purpose review of the department. For that purpose, the commission shall review:

(1) the extent to which the department has implemented laws enacted by the 76th Legislature in continuing the department under Chapter 325, Government Code;

(2) the extent to which the department has implemented the recommendations made by the commission to the 76th Legislature regarding the department that did not require statutory change;

(3) the extent to which the department has implemented the recommendations made by the state auditor in each audit report relating to the department issued after January 1, 1999, and before September 1, 2002; and

(4) the extent to which the department implements the recommendations of consultants employed by the department after January 1, 2001.

(b) In the commission's report to the 78th Legislature, the commission may include any recommendation the commission considers appropriate.

(c) The department shall cooperate with the commission in the review and shall provide to the commission any information the commission considers necessary for the review.

(d) This section expires September 1, 2003.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Bailey offered the following amendment to **CSSB 309**:

Amend **CSSB 309** in ARTICLE 1 of the bill by adding an appropriately numbered new SECTION to that ARTICLE to read as follows:

SECTION __. Section 367.003(a), Health and Safety Code, is amended to read as follows:

(a) The council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this chapter expires September 1, 2005 [~~2004~~].

Amendment No. 2 was adopted without objection.

CSSB 309, as amended, was passed to third reading.

SB 1590 ON SECOND READING
(Naishtat - House Sponsor)

SB 1590, A bill to be entitled An Act relating to the admissibility of evidence relating to certain Texas Department of Human Services investigations or surveys in certain actions or proceedings.

SB 1590 was read second time on May 17, postponed until May 21, postponed until earlier today, and was again postponed until this time.

Representative Naishtat moved to postpone consideration of **SB 1590** until 8 p.m. today.

The motion prevailed without objection.

MAJOR STATE CALENDAR
(consideration continued)

SB 1839 ON SECOND READING
(Eiland, Naishtat, Gray, Smithee, and Goodman - House Sponsors)

SB 1839, A bill to be entitled An Act relating to certain long-term care facilities.

Amendment No. 1 (Committee Amendment No. 1)

Representative Raymond offered the following committee amendment to **SB 1839**:

Amend **SB 1839** (senate engrossment) as follows:

(1) Strike Article 9 of the bill (page 37, line 5, through page 42, line 6), and substitute the following:

ARTICLE 9. QUALITY ASSURANCE FEE

SECTION 9.01. Chapter 252, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. QUALITY ASSURANCE FEE

Sec. 252.201. DEFINITION. In this subchapter, "gross receipts" means money paid as compensation for services provided to residents, including client participation. The term does not include charitable contributions to a facility.

Sec. 252.202. COMPUTING QUALITY ASSURANCE FEE. (a) A quality assurance fee is imposed on each facility for which a license fee must be paid under Section 252.034. The fee:

- (1) is an amount established under Subsection (b) multiplied by the number of patient days as determined in accordance with Section 252.203;
- (2) is payable monthly; and
- (3) is in addition to other fees imposed under this chapter.

(b) The Health and Human Services Commission or the department at the direction of the commission shall set the quality assurance fee for each day in the amount necessary to produce annual revenues equal to an amount that is not more than six percent of the facility's total annual gross receipts in this state. The fee is subject to a prospective adjustment as necessary.

(c) The amount of the quality assurance fee must be determined using patient days and gross receipts reported to the department and covering a period of at least six months.

(d) The quality assurance fee is an allowable cost for reimbursement under the Medicaid program.

Sec. 252.203. PATIENT DAYS. For each calendar day, a facility shall determine the number of patient days by adding the following:

(1) the number of patients occupying a facility bed immediately before midnight of that day;

(2) the number of beds that are on hold on that day and that have been placed on hold for a period not to exceed three consecutive calendar days during which a patient is in a hospital; and

(3) the number of beds that are on hold on that day and that have been placed on hold for a period not to exceed three consecutive calendar days during which a patient is on therapeutic home leave.

Sec. 252.204. REPORTING AND COLLECTION. (a) The Health and Human Services Commission or the department at the direction of the commission shall collect the quality assurance fee.

(b) Each facility shall:

(1) not later than the 10th day after the last day of a month file a report with the Health and Human Services Commission or the department, as appropriate, stating the total patient days for the month; and

(2) not later than the 30th day after the last day of the month pay the quality assurance fee.

Sec. 252.205. RULES; ADMINISTRATIVE PENALTY. (a) The Health and Human Services Commission shall adopt rules for the administration of this subchapter, including rules related to the imposition and collection of the quality assurance fee.

(b) The Health and Human Services Commission may not adopt rules granting any exceptions from the quality assurance fee.

(c) An administrative penalty assessed under this subchapter in accordance with Section 252.065 may not exceed one-half of the amount of the outstanding quality assurance fee or \$20,000, whichever is greater.

Sec. 252.206. QUALITY ASSURANCE FUND. (a) The quality assurance fund is a fund outside the state treasury held by the Texas Treasury Safekeeping Trust Company. Notwithstanding any other law, the comptroller shall deposit fees collected under this subchapter to the credit of the fund.

(b) The quality assurance fund is composed of:

- (1) fees deposited to the credit of the fund under this subchapter; and
- (2) the earnings of the fund.

(c) Money deposited to the quality assurance fund remains the property of the fund and may be used only for the purposes of this subchapter.

(d) Subject to legislative appropriation and this subchapter, quality assurance fees collected under this subchapter, combined with federal matching funds, will support or maintain an increase in Medicaid reimbursement for facilities.

Sec. 252.207. REIMBURSEMENT OF FACILITIES. (a) The Health and Human Services Commission shall use money in the quality assurance fund, together with any federal money available to match that money, to:

(1) offset allowable expenses under the Medicaid program; or

(2) increase reimbursement rates paid under the Medicaid program to facilities.

(b) The Health and Human Services Commission or the department at the direction of the commission shall devise the formula by which amounts received under this section increase the reimbursement rates paid to facilities under the Medicaid program.

(c) The Health and Human Services Commission shall ensure that the formula devised under Subsection (b) provides incentives for facilities to increase direct care staffing and direct care wages and benefits.

Sec. 252.208. INVALIDITY; FEDERAL FUNDS. If any portion of this subchapter is held invalid by a final order of a court that is not subject to appeal, or if the Health and Human Services Commission determines that the imposition of the fee and the expenditure as prescribed by this subchapter of amounts collected will not entitle the state to receive additional federal funds under the Medicaid program, the commission shall stop collection of the quality assurance fee and shall return, not later than the 30th day after the date collection is stopped, any money collected, but not spent, under this subchapter to the facilities that paid the fees in proportion to the total amount paid by those facilities.

Sec. 252.209. LEGISLATIVE REVIEW; EXPIRATION. The 79th Legislature shall review the operation and effectiveness of this subchapter. Unless continued in effect by the 79th Legislature, this subchapter expires September 1, 2005.

SECTION 9.02. Notwithstanding Section 252.202, Health and Safety Code, as added by this article, the quality assurance fee imposed under Subchapter H, Chapter 252, Health and Safety Code, as added by this article, that is effective for the first month following the effective date of this Act is equal to \$5.25 multiplied by the number of patient days as determined under that subchapter. The quality assurance fee established under this section remains in effect until the Health and Human Services Commission, or the Texas Department of Human Services at the direction of the commission, obtains the information necessary to set the fee under Section 252.202, Health and Safety Code, as added by this article.

SECTION 9.03. As soon as practicable after the effective date of this Act, the Health and Human Services Commission shall adopt rules as necessary to implement Subchapter H, Chapter 252, Health and Safety Code, as added by this article.

SECTION 9.04. If before implementing any provision of this article a state agency determines a waiver or authorization from a federal agency is necessary

for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

(2) In SECTION 11.01 of the bill, in Subdivision (10) (page 44, lines 18 and 19), strike "nursing homes, as described by Subchapter Q, Chapter 242" and substitute "intermediate care facilities for the mentally retarded, as described by Subchapter H, Chapter 252".

Amendment No. 2

Representative Eiland offered the following amendment to Amendment No. 1:

Amend Committee Amendment 1 to **SB 1839** as follows:

(1) In Section 252.202, Health and Safety Code, as added by SECTION 9.01, in the first sentence of Subsection (a) (house committee printing, page 45, line 14), between "Section 252.034" and the period, insert ", including a facility operated by a local mental health or mental retardation authority".

(2) In Section 252.206, Health and Safety Code, as added by SECTION 9.01, in Subsection (d) (house committee printing, page 47, line 21), between "facilities" and the period, insert "and associated service providers providing services under the state Medicaid home and community-based services waiver program for persons with mental retardation adopted in accordance with 42 U.S.C. Section 1396n(c)".

(3) In Section 252.207, Health and Safety Code, as added by SECTION 9.01, in Subsection (a)(2) (house committee printing, page 47, line 29), between "facilities" and the period, insert "and associated service providers providing services under the state Medicaid home and community-based services waiver program for persons with mental retardation adopted in accordance with 42 U.S.C. Section 1396n(c)".

(4) In Section 252.207, Health and Safety Code, as added by SECTION 9.01, in Subsection (b) (house committee printing, page 48, line 2), between "facilities" and "under", insert "and the associated services providers".

(5) In Section 252.207, Health and Safety Code, as added by SECTION 9.01, in Subsection (c) (house committee printing, page 48, line 5), strike "for facilities".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Eiland offered the following amendment to Amendment No. 1:

Amend Committee Amendment No. 1 to **SB 1839** in Section 252.207, Health and Safety Code, as added by SECTION 9.01, following Subsection (c) (house committee printing, page 48, between lines 6 and 7), by inserting new Subsection (d) to read as follows:

(d) The increased Medicaid reimbursement paid to a facility under this section may not be based solely on the amount of the quality assurance fee paid by that facility unless authorized by 42 C.F.R. Section 433.68 or other federal law.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Wohlgemuth offered the following amendment to Amendment No. 1:

Amend Committee Amendment 1 to **SB 1839** in Section 252.207(c), Health and Safety Code, as added by SECTION 9.01 (house committee printing, page 48, line 6), following the period, by inserting "The incentives established in accordance with this subsection may not restrict the use of funds for the purposes described by Subsection (a)."

Amendment No. 4 was withdrawn.

Amendment No. 1, as amended, was adopted without objection.

Amendment No. 5 (Committee Amendment No. 2)

Representative Noriega offered the following committee amendment to **SB 1839**:

Amend **SB 1839** (senate engrossed version) in Section 242.857, Health and Safety Code, as added by SECTION 9.01 of the bill, following Subsection (c) (page 40, between lines 21 and 22), by inserting new Subsection (d) to read as follows:

(d) The increased Medicaid reimbursement paid to an institution under this section may not be based solely on the amount of the quality assurance fee paid by that institution unless authorized by 42 C.F.R. Section 433.68 or other federal law.

Representative Noriega moved to table Amendment No. 5.

The motion to table prevailed.

Amendment No. 6 (Committee Amendment No. 3)

On behalf of Representative J. Davis, Representative Eiland offered the following committee amendment to **SB 1839**:

Amend **SB 1839** (senate engrossed version) as follows:

(1) In Section 242.0372, Health and Safety Code, as added by SECTION 6.01 of the bill, in Subsection (c)(1), between "aggregate" and the semicolon (page 21, line 3), insert ", except as provided by Subsection (d).".

(2) In Section 242.0372, Health and Safety Code, as added by SECTION 6.01 of the bill, following Subsection (c) (page 21, between lines 13 and 14), insert new Subsection (d) to read as follows:

(d) For an institution that is owned and operated by a governmental unit, as that term is defined by Section 101.001, Civil Practice and Remedies Code, the insurance coverage maintained by the institution must provide coverage only to the extent of the governmental unit's liability under Section 101.023, Civil Practice and Remedies Code.

(3) In Section 242.0372, Health and Safety Code, as added by SECTION 6.01 of the bill, renumber subsections appropriately.

Amendment No. 7

Representative B. Turner offered the following amendment to Amendment No. 6:

Amend Committee Amendment No. 3 by J. Davis to **SB 1839** by striking the text of the amendment (house committee printing, page 51, lines 1-17) and substituting the following:

Amend **SB 1839** as follows:

(1) Strike Article 6 of the bill (house committee printing, page 20, line 15, through page 22, line 7), and renumber subsequent ARTICLES and SECTIONS of the bill accordingly.

(2) In SECTION 11.01 of the bill, strike Subdivision (4) (house committee printing, page 44, lines 3-4) and renumber subsequent subdivisions of the SECTION accordingly.

(Sadler now present)

(Sadler in the chair)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness:

Oliveira on motion of R. Lewis.

SB 1839 - (consideration continued)

Representative Eiland moved to table Amendment No. 7.

(Speaker in the chair)

A record vote was requested.

The motion to table was lost by (Record 504): 50 Yeas, 93 Nays, 1 Present, not voting.

Yeas — Bailey; Bosse; Burnam; Capelo; Chavez; Coleman; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Ehrhardt; Eiland; Farrar; Flores; Giddings; Gray; Hinojosa; Hochberg; Hodge; Lewis, G.; Longoria; Luna; Maxey; McClendon; McReynolds; Menendez; Moreno, J.; Naishtat; Noriega; Olivo; Pickett; Puente; Rangel; Raymond; Reyna, A.; Ritter; Sadler; Smithee; Solis; Telford; Thompson; Tillery; Turner, S.; Uresti; Villarreal; Wilson; Yarbrough; Zbranek.

Nays — Alexander; Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Crossover; Davis, J.; Delisi; Denny; Driver; Edwards; Elkins; Ellis; Farabee; Gallego; Garcia; George; Geren; Glaze; Goodman; Goolsby; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, R.; Madden; Marchant; Martinez Fischer; McCall; Merritt; Miller; Morrison; Mowery; Najera; Nixon; Pitts; Ramsay; Reyna, E.; Salinas; Seaman; Shields; Smith; Solomons; Swinford; Talton; Truitt; Turner, B.; Walker; Williams; Wise; Wohlgemuth; Wolens; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Oliveira; West.

Absent — Jones, J.; Moreno, P.; Uher.

Amendment No. 7 was adopted without objection.

Amendment No. 6, as amended, was adopted without objection.

Amendment No. 8 (Committee Amendment No. 4)

Representative Naishtat offered the following committee amendment to **SB 1839**:

Amend **SB 1839** (senate engrossed version) as follows:

(1) In Section 242.071, Health and Safety Code, as amended by SECTION 8.01 of the bill, strike Subsection (j) (page 34, lines 14-18), and substitute the following:

(j) In this section, "immediate jeopardy to health and safety" means a situation in which immediate corrective action is necessary because the institution's non-compliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in the institution.

(2) In Section 252.071, Health and Safety Code, as amended by SECTION 8.02 of the bill, strike Subsection (j) (page 36, lines 21-25), and substitute the following:

(j) In this section, "immediate jeopardy to health and safety" means a situation in which immediate corrective action is necessary because the facility's non-compliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in the facility.

Amendment No. 8 was adopted without objection.

Amendment No. 9 (Committee Amendment No. 5)

Representative Naishtat offered the following committee amendment to **SB 1839**:

Amend **SB 1839** (senate engrossment) as follows:

(1) In SECTION 5.06 of the bill, in the recital (page 10, line 17), strike "Subdivision (1)" and substitute "Subdivisions (1) and (3)".

(2) In SECTION 5.06 of the bill, following amended Subdivision (1), insert the following:

(3) Any deficit sustained by the association with respect to physicians and health care providers, other than for-profit and not-for-profit nursing homes, or by for-profit and not for profit nursing homes in any one year shall be recouped, pursuant to the plan of operation and the rating plan then in effect, by one or more of the following procedures in this sequence:

First, a contribution from the policyholder's stabilization reserve fund for physicians and health care providers, other than for-profit and not-for-profit nursing homes, established under Section 4A of this article or from the policyholder's stabilization reserve fund for for-profit and not-for-profit nursing homes, established under Section 4B of this article, as appropriate, until the respective fund [same] is exhausted;

Second, an assessment upon the policyholders pursuant to Section 5(a) of this article;

Third, an assessment upon the members pursuant to Section 5(b) of this article. To the extent a member has paid one or more assessments and has not received reimbursement from the association in accordance with Subdivision (5) of this subsection, a credit against premium taxes under Article 4.10 of this code [7064, Revised Civil Statutes of Texas, 1925], as amended, shall be allowed. The tax credit shall be allowed at a rate of 20 percent per year for five successive years following the year in which said deficit was sustained and at the option of the insurer may be taken over an additional number of years.

(3) In Section 5.07 of the bill, strike amended Section 4A, Article 21.49-3, Insurance Code (page 11, line 18, through page 13, line 23), and substitute the following:

Sec. 4A. POLICYHOLDER'S STABILIZATION RESERVE FUND FOR PHYSICIANS AND HEALTH CARE PROVIDERS OTHER THAN FOR-PROFIT AND NOT-FOR-PROFIT NURSING HOMES. (a) There is hereby created a policyholder's stabilization reserve fund for physicians and health care providers, other than for-profit and not-for-profit nursing homes, which shall be administered as provided herein and in the plan of operation of the association. The stabilization reserve fund created by this section is separate and distinct from the stabilization reserve fund for for-profit and not-for-profit nursing homes created by Section 4B of this article.

(b) Each policyholder shall pay annually into the stabilization reserve fund a charge, the amount of which shall be established annually by advisory directors chosen by health care providers, other than for-profit and not-for-profit nursing homes, and physicians eligible for insurance in the association in accordance with the plan of operation. The charge shall be in proportion to each premium payment due for liability insurance through the association. Such charge shall be separately stated in the policy, but shall not constitute a part of premiums or be subject to premium taxation, servicing fees, acquisition costs, or any other such charges.

(c) The [policyholder's] stabilization reserve fund shall be collected and administered by the association and shall be treated as a liability of the association along with and in the same manner as premium and loss reserves. The fund shall be valued annually by the board of directors as of the close of the last preceding year.

(d) Collections of the stabilization reserve fund charge shall continue until such time as the net balance of the stabilization reserve fund is not less than the projected sum of premiums for physicians and health care providers, other than for-profit and not-for-profit nursing homes, to be written in the year following valuation date.

(e) The stabilization reserve fund shall be credited with all stabilization reserve fund charges collected from physicians and health care providers, other than for-profit and not-for-profit nursing homes, [policyholders] and shall be charged with any deficit from the prior year's operation of the association.

(4) In Section 5.08 of the bill, in the recital (page 13, line 25), strike "Section 4B" and substitute "Sections 4B and 4C".

(5) In Section 5.08 of the bill, following the recital (page 13, between lines 25 and 26), insert the following new Section 4B, Article 21.49-3, Insurance Code, and renumber existing Section 4B as 4C:

Sec. 4B. STABILIZATION RESERVE FUND FOR FOR-PROFIT AND NOT-FOR-PROFIT NURSING HOMES. (a) There is hereby created a stabilization reserve fund for for-profit and not-for-profit nursing homes which shall be administered as provided in this section and in the plan of operation of the association. The stabilization reserve fund created by this section is separate and distinct from the policyholder's stabilization reserve fund for the physicians and health care providers, other than for-profit and not-for-profit nursing homes, created by Section 4A of this article.

(b) Each policyholder shall pay annually into the stabilization reserve fund a charge, the amount of which shall be established annually by advisory directors chosen by for-profit and not-for-profit nursing homes eligible for insurance in the association in accordance with the plan of operation. The charge shall be in proportion to each premium payment due for liability insurance through the association. The charge shall be separately stated in the policy, but shall not constitute a part of premiums or be subject to premium taxation, servicing fees, acquisition costs, or any other similar charges.

(c) The stabilization reserve fund shall be collected and administered by the association and shall be treated as a liability of the association along with and in the same manner as premium and loss reserves. The fund shall be valued annually by the board of directors as of the close of the last preceding year.

(d) Collections of the stabilization reserve fund charge shall continue only until such time as the net balance of the stabilization reserve fund is not less than the projected sum of premiums for for-profit and not-for-profit nursing homes to be written in the year following valuation date.

(e) The stabilization reserve fund shall be credited with all stabilization reserve fund charges collected from for-profit and not-for-profit nursing homes and the net earnings on liability insurance policies issued to for-profit and not-for-profit nursing home, and shall be charged with any deficit sustained by for-profit and not-for-profit nursing homes from the prior year's operation of the association.

(f) The stabilization reserve fund established under this section, and any earnings of the fund, are state funds and shall be held by the comptroller outside the state treasury on behalf of, and with legal title in, the department. No part of the fund, or the earnings of the fund, may inure to the benefit of a member of the association, a policyholder, or any other individual, and the assets of the fund may be used in accordance with the association's plan of operation only to implement this article and for the purposes of the association, including making payment to satisfy, in whole or in part, the liability of the association regarding a claim made on a policy written by the association.

(g) Notwithstanding Sections 11, 12, and 13 of this article, the stabilization reserve fund established under this section may be terminated only by law.

(h) Notwithstanding Section 11 of this article, on termination of the stabilization reserve fund established under this section, all assets of the fund shall be transferred to the general revenue fund to be appropriated for purposes related to ensuring the kinds of liability insurance coverage that may be provided by the association under this article for for-profit and not-for-profit nursing homes.

(6) Following SECTION 5.08 of the bill (page 15, between lines 1 and 2) insert the following new SECTION, appropriately numbered:

SECTION _____. Section 5, Article 21.49-3, Insurance Code, is amended to read as follows:

Sec. 5. PARTICIPATION. (a) Each policyholder within the group of physicians and health care providers, other than for-profit and not-for-profit nursing homes, or within the group of for-profit and not for profit nursing homes shall have contingent liability for a proportionate share of any assessment of policyholders in the applicable group made under the authority of this article. Whenever a deficit, as calculated pursuant to the plan of operation, is sustained with respect to the group of physicians and health care providers, other than for-profit and not-for-profit nursing homes, or the group of for-profit and not for profit nursing homes [~~by the association~~] in any one year, its directors shall levy an assessment only upon those policyholders in the applicable group who held policies in force at any time within the two most recently completed calendar years in which the association was issuing policies preceding the date on which the assessment was levied. The aggregate amount of the assessment shall be equal to that part of the deficit not recouped from the applicable stabilization reserve fund. The maximum aggregate assessment per policyholder in the applicable group shall not exceed the annual premium for the liability policy most recently in effect. Subject to such maximum limitation, each policyholder in the applicable group shall be assessed for that portion of the deficit reflecting the proportion which the earned premium on the policies of such policyholder bears to the total earned premium for all policies of the association in the applicable group in the two most recently completed calendar years.

(b) All insurers which are members of the association shall participate in its writings, expenses, and losses in the proportion that the net direct premiums, as defined herein, of each such member, excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the association. Each insurer's participation in the association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the insurer that may be required by the board. No member shall be obligated in any one year to reimburse the association on account of its proportionate share in the deficits [~~deficit~~] from operations of the association in that year in excess of one percent of its surplus to policyholders and the aggregate amount not so reimbursed shall be reallocated among the remaining members in accordance with the method of determining participation prescribed in this subdivision, after excluding from the computation the total net direct premiums of all members not sharing in such excess deficits [~~deficit~~]. In the event that the deficits [~~deficit~~] from operations allocated to all members of the association in any calendar year shall exceed one percent of their respective surplus to policyholders, the amount of such deficits [~~deficit~~] shall be allocated to each member in accordance with the method of determining participation prescribed in this subdivision.

(7) In SECTION 5.09 of the bill, in added Section 3, Article 21.49-3d,

Insurance Code, strike Subsection (a) (page 15, line 22 through page 16, line 2), and substitute the following:

(a) On behalf of the association, the Texas Public Finance Authority shall issue revenue bonds to:

(1) fund the policyholder's stabilization reserve fund for for-profit and not-for-profit nursing homes established under Section 4B, Article 21.49-3 of this code;

(2) pay costs related to issuance of the bonds; and

(3) pay other costs related to the bonds as may be determined by the board.

(8) In SECTION 5.09 of the bill, in added Section 9, Article 21.49-3d, Insurance Code, in Subsection (a) (page 17, line 7), strike "fund" and substitute "association".

(9) Renumber SECTIONS of Article 5 of the bill accordingly.

Amendment No. 10

Representative Eiland offered the following amendment to Amendment No. 9:

Amend Committee Amendment No. 5 to **SB 1839** as follows:

(1) In Item (2) of the amendment, in amended Subdivision (3), Subsection (b), Section 4, Article 21.49-3, Insurance Code, in the second paragraph (house committee printing, page 53, lines 16-17), strike "policyholder's stabilization reserve fund for for-profit" and substitute "stabilization reserve fund for for-profit".

(2) In Item (3) of the amendment, in amended Subsection (e), Section 4A, Article 21.49-3, Insurance Code, (house committee printing, page 55, line 19), between "deficit" and "from the prior year's" insert "sustained by physicians and health care providers, other than for-profit and not-for-profit nursing homes,".

(3) In Item (7) of the amendment, in added Subdivision (1), Subsection (a), Section 3, Article 21.49-3d, Insurance Code (house committee printing, page 60, line 11), strike "policyholder's".

Amendment No. 10 was adopted without objection.

Amendment No. 9, as amended, was adopted without objection.

Amendment No. 11 (Committee Amendment No. 6)

Representative Naishtat offered the following committee amendment to **SB 1839**:

Amend **SB 1839** in SECTION 5.09 of the bill as follows:

(1) In added Subsection (b), Section 10, Article 21.49-3d, Insurance Code, strike "Article 5.24" and substitute "Articles 5.12 and 5.24" (senate engrossment, page 18, line 3).

(2) In added Subsection (c), Section 10, Article 21.49-3d, Insurance Code:
(A) Strike "tax rate applicable" and substitute "tax rates applicable" (senate engrossment, page 18, lines 5 and 8).

(B) Strike "liability insurance to" and substitute "liability insurance, including motor vehicle liability insurance, to" (senate engrossment, page 18, lines 6 and 12).

(C) Strike "Article 5.24" and substitute "Articles 5.12 and 5.24" (senate engrossment, page 18, line 9).

(D) Strike "tax rate is" and substitute "tax rates are" (senate engrossment, page 18, line 9).

(3) In added Subsection (e), Section 10, Article 21.49-3d, Insurance Code, strike "liability insurance" and substitute "liability insurance, including motor vehicle liability insurance," (senate engrossment, page 18, lines 21 and 25, page 19, lines 3 and 6).

Amendment No. 11 was adopted without objection.

Amendment No. 12 (Committee Amendment No. 7)

Representative Raymond offered the following committee amendment to **SB 1839**:

Amend **SB 1839** by adding a new appropriately numbered section as follows and renumbering subsequent sections:

SECTION _____. (a) The legislature approves the procedures established through negotiated rulemaking by the Texas Department of Human Services in compliance with Section 32.0213, Human Resources Code, including any amendments to those procedures with an effective date before April 1, 2001.

(b) The legislature ratifies any waiver issued by the commissioner of human services on or after September 1, 1997, and before April 1, 2001, to a nursing facility relating to the number of certified Medicaid beds at the facility, provided that the facility complies with all applicable requirements for licensure and certification.

Amendment No. 12 was adopted without objection.

Amendment No. 13 (Committee Amendment No. 8)

Representative Naishtat offered the following committee amendment to **SB 1839**:

Amend **SB 1839** (senate engrossment) as follows:

(1) Following SECTION 7.01 of the bill (page 23, between lines 20 and 21), insert the following new SECTION, appropriately numbered:

SECTION 7.____. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 254 to read as follows:

CHAPTER 254. SURVEY PROCESS IN CERTAIN
INSTITUTIONS AND FACILITIES

Sec. 254.001. DEFINITION. In this chapter:

(1) "Department" means the Texas Department of Human Services.

(2) "Office" means the Texas Department of Human Services office of program integrity.

Sec. 254.002. REVIEW OF SURVEY PROCESS IN CERTAIN INSTITUTIONS AND FACILITIES. (a) The office shall adopt procedures to review:

(1) citations or penalties assessed for a violation of a rule or law against an institution or facility licensed under Chapter 242, 247, or 252, or certified in accordance with Chapter 32, Human Resources Code, considering:

(A) the number of violations by geographic region;

(B) the patterns of violations in each region; and
(C) the outcomes following the assessment of a penalty or citation; and

(2) the performance of duties by employees and agents of the department or another state agency responsible for licensing, inspecting, surveying, or investigating institutions and facilities licensed under Chapter 242, 247, or 252, or certified in accordance with Chapter 32, Human Resources Code, related to:

(A) complaints received by the office; or

(B) any standards or rules violated by an employee or agent of a state agency.

(b) The department shall annually report to the speaker of the house of representatives, the lieutenant governor, and the governor on the findings of the review conducted by the office under Subsection (a).

(2) In SECTION 7.02 of the bill, in the recital (page 23, line 22, strike "531.056, and 531.057," and substitute "531.057".

(3) In SECTION 7.02 of the bill, strike added Section 531.056, Government Code (page 23, line 24, through page 24, line 23).

(4) In SECTION 7.04 of the bill (page 30, line 19, strike "531.056, 531.057" and substitute "531.057".

(5) Following SECTION 7.04 of the bill, (page 30, between lines 20 and 21) insert the following new SECTION, appropriately numbered:

SECTION 7.____. Not later than January 1, 2002, the Texas Board of Human Services shall adopt any rules necessary to implement Chapter 254, Health and Safety Code, as added by this article.

(6) Renumber SECTIONS of Article 7 of the bill accordingly.

(7) In SECTION 11.01 of the bill, in Subdivision (6) (page 44, lines 9-10), strike "Section 531.056, Government" and substitute "Chapter 254 Health and Safety".

Representative Naishtat moved to table Amendment No. 13.

The motion to table prevailed.

Amendment No. 14 (Committee Amendment No. 9)

Representative Naishtat offered the following committee amendment to **SB 1839**:

Amend **SB 1839** as follows:

(1) In SECTION 7.02 of the bill:

(A) In the recital, strike "531.056, 531.057," and substitute "531.056" (senate engrossment, page 23, line 22).

(B) Strike added Section 531.057, Government Code (senate engrossment, page 24, lines 24-26, page 25, lines 1-26, page 26, lines 1-26, page 27, lines 1-26, and page 28, line 1).

(2) In SECTION 7.04 of the bill, strike "531.056, 531.057," and substitute "531.056" (senate engrossment, page 30, line 19).

(3) In SECTION 7.06 of the bill:

(A) Strike "(a)" (senate engrossment, page 30, line 25).

(B) Strike Subsection (b) (senate engrossment, page 32, lines 2-5).

(4) In SECTION 11.01 of the bill:

(A) Strike Subdivision (7) (senate engrossment, page 44, lines 11-13).

(B) Redesignate Subdivision (8) as Subdivision (7) (senate engrossment, page 44, line 14).

(C) Redesignate Subdivision (9) as Subdivision (8) (senate engrossment, page 44, line 16).

(D) Redesignate Subdivision (10) as Subdivision (9) (senate engrossment, page 44, line 18).

Representative Naishtat moved to table Amendment No. 14.

The motion to table prevailed.

Amendment No. 15

Representative Eiland offered the following amendment to **SB 1839**:

Amend **SB 1839** (house committee printing) by inserting the following appropriately numbered ARTICLE to the bill and renumbering ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ RATES PAID FOR NURSING HOME SERVICES

SECTION __.01. Section 32.028, Human Resources Code, is amended by adding Subsection (g) to read as follows:

(g) The Health and Human Services Commission shall ensure that the rules governing the determination of rates paid for nursing home services improve the quality of care by providing incentives for increasing direct care staff and direct care wages and benefits.

Amendment No. 16

Representative Wohlgemuth offered the following amendment to Amendment No. 15:

Amend Floor Amendment 15 to **SB 1839** by Eiland in Section 32.028(g), Human Resources Code, as added by the amendment, between "benefits" and the period, by inserting "and incorporates the use of a quality of care index, a customer satisfaction index, and a resolved complaints index developed by the commission".

Amendment No. 16 was adopted without objection.

Amendment No. 17

Representative Wohlgemuth offered the following amendment to Amendment No. 15:

Amend Floor Amendment 15 to **SB 1839** by Eiland in Section 32.028(g), Human Resources Code, as added by the amendment, following the period, by inserting "The incentives established in accordance with this subsection may not restrict the use of funds to offset allowable expenses under the medical assistance program or to increase reimbursement rates paid under the medical assistance program to nursing homes."

Amendment No. 17 was withdrawn.

Amendment No. 15, as amended, was adopted without objection.

Amendment No. 18

Representative Craddick offered the following amendment to **SB 1839**:

Amend **SB 1839** (house committee printing) in SECTION 5.09 of the bill as follows:

(1) In added Subsection (a), Section 9, Article 21.49-3d, Insurance Code, strike "maintenance tax surcharge" and substitute "assessment" (page 17, line 6).

(2) Strike added Section 10, Article 21.49-3d, Insurance Code, and substitute the following:

Sec. 10. ASSESSMENT. (a) The commissioner shall impose an assessment against:

(1) each insurer; and

(2) the association.

(b) The assessment shall be set in an amount sufficient to pay all debt service on the bonds. The assessment is set by the commissioner and shall be collected as the commissioner specifies by rule.

(c) It shall be the duty of each insurer to pay the amount of an assessment under Subsection (b) of this section to the association not later than the 30th day after the association gives notice of the assessment.

(d) Assessments may be collected on behalf of the association by the commissioner through suits brought for that purpose. Venue for those suits is in Travis County. Either party to the action may appeal to the appellate court having jurisdiction over the cause, the appeal shall be at once returnable to the appellate court having jurisdiction over the cause, and the action so appealed shall have precedence in the appellate court over all causes of a different character pending before the court. The commissioner is not required to give an appeal bond in any cause arising under this subsection.

(e) An insurer designated as an impaired insurer by the commissioner is exempt from assessment from and after the date of the designation and until the commissioner determines that the insurer is no longer an impaired insurer.

(f) The association and each insurer may pass through the assessment imposed under this section to each of its policyholders.

(g) As a condition of engaging in the business of insurance in this state, an insurer agrees that if the company leaves the market for liability insurance in this state the insurer remains obligated to pay, until the bonds are retired, the insurer's share of the assessment imposed under this section in an amount proportionate to that insurer's share of the market for liability insurance in this state as of the last complete reporting period before the date on which the insurer ceases to engage in that insurance business in this state. The proportion of the assessment imposed on the insurer shall be based on the insurer's gross premiums for liability insurance for the insurer's last reporting period. However, an insurer is not required to pay the proportionate amount in any year in which the amount of the assessment imposed under this section on insurers continuing to write liability insurance in this state is sufficient to service the bond obligation.

(h) One hundred percent of any assessment paid by an insurer under this section shall be allowed to that insurer as a credit against its premium tax under this code. The tax credit referred to in this section shall be allowed at a rate

of 10 percent per year for 10 successive years following the date of assessment and, at the option of the insurer, may be taken over an additional number of years. The balance of any tax credit not claimed in a particular year may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements under Article 6.12 of this code.

(i) Available credit against premium tax allowed under Subsection (h) of this section may be transferred or assigned among or between insurers if:

(1) a merger, acquisition, or total assumption of reinsurance among or between the insurers occurs; or

(2) the commissioner by order approves the transfer or assignment.

(Brimer in the chair)

Amendment No. 18 was withdrawn.

Amendment No. 19

Representative Naishtat offered the following amendment to **SB 1839**:

Amend **SB 1839** (senate engrossment) as follows:

(1) Following SECTION 7.02 of the bill (page 29, between lines 8 and 9), insert the following new SECTION, appropriately numbered:

SECTION 7.____. Amend Subtitle B, Title 4, Health and Safety Code, by adding Chapter 255 to read as follows:

CHAPTER 255. QUALITY ASSURANCE EARLY WARNING SYSTEM FOR LONG-TERM CARE FACILITIES; RAPID RESPONSE TEAMS

Sec. 255.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Human Services.

(2) "Long-term care facility" means a nursing institution, an assisted living facility, or an intermediate care facility for the mentally retarded licensed under Chapter 242, 247, or 252, or certified under Chapter 32, Human Resources Code.

(3) "Quality-of-care monitor" means a registered nurse, pharmacist, or nutritionist who:

(A) is employed by the department;

(B) is trained and experienced in long-term care facility regulation, standards of practice in long-term care, and evaluation of patient care; and

(C) functions independently of other divisions of the department.

Sec. 255.002. EARLY WARNING SYSTEM. The department shall establish an early warning system to detect conditions that could be detrimental to the health, safety, and welfare of residents. The early warning system shall include analysis of financial and quality-of-care indicators that would predict the need for the department to take action.

Sec. 255.003. QUALITY-OF-CARE MONITORS. (a) The department shall establish regional offices with one or more quality-of-care monitors, based on the number of long-term care facilities in the region, to monitor the facilities in the region on a regular, unannounced, aperiodic basis, including nights, evenings, weekends, and holidays.

(b) Priority for monitoring visits shall be given to long-term care facilities with a history of patient care deficiencies.

(c) Quality-of-care monitors may not be deployed by the department as a part of the regional survey team in the conduct of routine, scheduled surveys.

(d) A quality-of-care monitor may not interfere with, impede, or otherwise adversely affect the performance of the duties of a surveyor, inspector, or investigator of the department.

(e) Quality-of-care monitors shall assess:

(1) the overall quality of life in the long-term care facility; and

(2) specific conditions in the facility directly related to patient care.

(f) The quality-of-care monitor shall include in an assessment visit:

(1) observation of the care and services rendered to residents; and

(2) formal and informal interviews with residents, family members, facility staff, resident guests, volunteers, other regulatory staff, and representatives of a human rights advocacy committee.

(g) The identity of a resident or a family member of a resident interviewed by a quality-of-care monitor as provided by Subsection (f)(2) shall remain confidential and may not be disclosed to any person under any other provision of this section.

(h) The findings of a monitoring visit, both positive and negative, shall be provided orally and in writing to the long-term care facility administrator or, in the absence of the facility administrator, to the administrator on duty or the director of nursing.

(i) The quality-of-care monitor may recommend to the long-term care facility administrator procedural and policy changes and staff training to improve the care or quality of life of facility residents.

(j) Conditions observed by the quality-of-care monitor that create an immediate threat to the health or safety of a resident shall be reported immediately to the regional office supervisor for appropriate action and, as appropriate or as required by law, to law enforcement, adult protective services, other divisions of the department, or other responsible agencies.

Sec. 255.004. RAPID RESPONSE TEAMS. (a) The department shall create rapid response teams composed of health care experts that can visit long-term care facilities identified through the department's early warning system.

(b) Rapid response teams may visit long-term care facilities that request the department's assistance. A visit under this subsection may not occur before the 60th day after the date of an exit interview following an annual or follow-up survey or inspection.

(c) The rapid response teams may not be deployed for the purpose of helping a long-term care facility prepare for a regular inspection or survey conducted under Chapter 242, 247, or 252 or in accordance with Chapter 32, Human Resources Code.

(2) In SECTION 7.02 of the bill:

(A) In the recital, strike "531.056, 531.057," and substitute "531.056" (page 23, line 22).

(B) Strike added Section 531.057, Government Code (page 24, lines 24-26, page 25, lines 1-26, page 26, lines 1-26, page 27, lines 1-26, and page 28, line 1).

(3) In SECTION 7.04 of the bill, strike "531.056, 531.057," and substitute "531.056" (page 30, line 19).

(4) Following SECTION 7.04 of the bill, (page 30, between lines 20 and 21) insert the following new SECTION, appropriately numbered:

SECTION 7.____. Not later than January 1, 2002, the Texas Board of Human Services shall adopt any rules necessary to implement Chapter 255, Health and Safety Code, as added by this article.

(5) In SECTION 7.06 of the bill:

(A) Strike "(a)" (page 30, line 25).

(B) Strike Subsection (b)(page 32, lines 2-5).

(6) Renumber SECTIONS of Article 7 of the bill accordingly.

(7) In SECTION 11.01 of the bill, in Subdivision (7) (page 44, lines 11-13), strike "Section 531.057, Government" and substitute "Chapter 255, Health and Safety".

Amendment No. 20

Representative Wohlgemuth offered the following amendment to Amendment No. 19:

Amend Floor Amendment No. 19 by Naishtat to **SB 1839**, in item (1) of the amendment, in added Chapter 255, Health and Safety Code (page 4, between lines 11 and 12), by inserting:

Sec. 255.005. REPORT. The department shall assess and evaluate the effectiveness of the quality assurance early warning system and shall report its findings annually to the governor, lieutenant governor, and speaker of the house of representatives.

Amendment No. 20 was adopted without objection.

Amendment No. 19, as amended, was adopted without objection.

Amendment No. 21

Representative Wohlgemuth offered the following amendment to **SB 1839**:

Amend **SB 1839** in SECTION 7.04 of the bill (house committee printing, page 30, line 18), between "services" and "shall adopt", insert ", through negotiated rulemaking in accordance with Chapter 2008, Government Code".

Amendment No. 21 was adopted without objection.

Amendment No. 22

Representative Naishtat offered the following amendment to **SB 1839**:

Amend **SB 1839** (house committee printing) in ARTICLE 7 of the bill by inserting a new SECTION, appropriately numbered, to read as follows, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 7.____. (a) Section 242.0335, Health and Safety Code, as added by **SB 772**, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Subsection (d) to read as follows:

(d) Subsection (c) applies only to a license holder designated as eligible for and placed on the list maintained under Subsection (a).

(b) This section takes effect only if **SB 772**, as enacted by the 77th Legislature, Regular Session, 2001, becomes law. If **SB 772** does not become law, this section has no effect.

Amendment No. 22 was adopted without objection.

Amendment No. 23

Representative Craddick offered the following amendment to **SB 1839**:

Amend **SB 1839** (house committee printing) in SECTION 5.09 of the bill as follows:

(1) In added Subsection (a), Section 9, Article 21.49-3d, Insurance Code, strike "maintenance tax surcharge" and substitute "assessment" (page 17, line 6).

(2) Strike added Section 10, Article 21.49-3d, Insurance Code, and substitute the following:

Sec. 10. ASSESSMENT. (a) The commissioner shall impose an assessment against:

(1) each insurer; and

(2) the association.

(b) The assessment shall be set in an amount sufficient to pay all debt service on the bonds. The assessment is set by the commissioner and shall be collected as the commissioner specifies by rule.

(c) It shall be the duty of each insurer to pay the amount of an assessment under Subsection (b) of this section to the association not later than the 30th day after the association gives notice of the assessment.

(d) Assessments may be collected on behalf of the association by the commissioner through suits brought for that purpose. Venue for those suits is in Travis County. Either party to the action may appeal to the appellate court having jurisdiction over the cause, the appeal shall be at once returnable to the appellate court having jurisdiction over the cause, and the action so appealed shall have precedence in the appellate court over all causes of a different character pending before the court. The commissioner is not required to give an appeal bond in any cause arising under this subsection.

(e) An insurer designated as an impaired insurer by the commissioner is exempt from assessment from and after the date of the designation and until the commissioner determines that the insurer is no longer an impaired insurer.

(f) The association and each insurer may pass through the assessment imposed under this section to each of its policyholders. If the association or an insurer passes through the assessment to its policyholders, the amount passed through to a policyholder must appear on the policyholder's statement.

(g) As a condition of engaging in the business of insurance in this state, an insurer agrees that if the company leaves the market for liability insurance in this state the insurer remains obligated to pay, until the bonds are retired, the insurer's share of the assessment imposed under this section in an amount proportionate to that insurer's share of the market for liability insurance in this state as of the last complete reporting period before the date on which the insurer ceases to engage in that insurance business in this state. The proportion of the assessment imposed on the insurer shall be based on the insurer's gross premiums for liability insurance for the insurer's last reporting

period. However, an insurer is not required to pay the proportionate amount in any year in which the amount of the assessment imposed under this section on insurers continuing to write liability insurance in this state is sufficient to service the bond obligation.

(h) One hundred percent of any assessment paid by an insurer under this section shall be allowed to that insurer as a credit against its premium tax under this code. The tax credit referred to in this section shall be allowed at a rate of 10 percent per year for 10 successive years following the date of assessment and, at the option of the insurer, may be taken over an additional number of years. The balance of any tax credit not claimed in a particular year may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements under Article 6.12 of this code.

(i) Available credit against premium tax allowed under Subsection (h) of this section may be transferred or assigned among or between insurers if:

(1) a merger, acquisition, or total assumption of reinsurance among or between the insurers occurs; or

(2) the commissioner by order approves the transfer or assignment.

Amendment No. 23 was adopted without objection.

SB 1839, as amended, was passed to third reading.

POSTPONED BUSINESS

The following bill was laid before the house as postponed business:

SB 1590 ON SECOND READING (Naishtat - House Sponsor)

SB 1590, A bill to be entitled An Act relating to the admissibility of evidence relating to certain Texas Department of Human Services investigations or surveys in certain actions or proceedings.

SB 1590 was read second time on May 17, postponed until May 21, postponed until 2 p.m. today, postponed until 6 p. m. today, and was again postponed until this time.

Representative Naishtat moved to postpone consideration of **SB 1590** until 10 p.m. today.

The motion prevailed without objection.

MAJOR STATE CALENDAR (consideration continued)

CSSB 11 ON SECOND READING (Gray, Maxey, Kitchen, and Capelo - House Sponsors)

CSSB 11, A bill to be entitled An Act relating to protecting the privacy of medical records; providing penalties.

Amendment No. 1

Representative Kitchen offered the following amendment to **CSSB 11**:

Amend **CSSB 11** as follows:

(1) In SECTION 1 of the bill, in added Section 181.001, Health and Safety Code (House committee printing, page 2, between lines 26 and 27), add the following new subdivision:

(4) "Protected health information" means individually identifiable health information, including demographic information collected from an individual, that:

(A) relates to:

(i) the past, present, or future physical or mental health or condition of an individual;

(ii) the provision of health care to an individual; or

(iii) the past, present, or future payment for the provision of health care to an individual; and

(B) identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

(2) In SECTION 1 of the bill, in added Section 181.051, Health and Safety Code (House committee printing, page 3, line 18), strike "acting in compliance" and substitute "required to comply".

(3) In SECTION 1 of the bill, in added Section 181.055(2), Health and safety Code (House committee printing, page 5, line 15), strike ", health care entity,".

(4) In SECTION 1 of the bill, in added Section 181.101(a), Health and Safety Code (House committee printing, page 6, line 11), strike "(a)".

(5) In SECTION 1 of the bill, strike added Section 181.101(b) Health and Safety Code (House committee printing, page 6, lines 21-25).

(6) In SECTION 1 of the bill, in added Section 181.102(a), Health and Safety Code (House committee printing, page 6, line 27), strike "or health care entity".

(7) In SECTION 1 of the bill, in added Section 181.102(b), Health and Safety Code (House committee printing, page 7, line 24), strike "or health care entity".

(8) In SECTION 1 of the bill, in added Section 181.102(f), Health and Safety Code (House committee printing, page 10, line 12), strike "or health care entity".

(9) In SECTION 1 of the bill, in added Section 181.102(f), Health and Safety Code (House committee printing, page 10, line 14), strike "or health care entity".

(10) In SECTION 1 of the bill, in added Section 181.102(f)(2), Health and Safety Code (House committee printing, page 10, line 20), strike "or health care entity".

(11) In SECTION 1 of the bill, in added Section 181.201(b), Health and Safety Code (House committee printing, page 12, line 23), strike "or health care entity".

(12) In SECTION 1 of the bill, in added Section 181.203, Health and Safety Code (House committee printing, page 13, line 14), strike "there is evidence that" and substitute "a court finds".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Maxey offered the following amendment to **CSSB 11**:

Amend **CSSB 11** as follows:

(1) In SECTION 1 of the bill, in added Section 181.001(b)(1), Health and Safety Code (House committee printing, page 1, line 15), strike "person, other than an employer," and substitute "person".

(2) In SECTION 1 of the bill, in added Section 181.051, Health and Safety Code (House committee printing, page 3, line 21), strike "or".

(3) In SECTION 1 of the bill, in added Section 181.051, Health and Safety Code (House committee printing, page 3, line 23), between Code" and the period insert the following:

": or

(5) an employer"

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Delisi offered the following amendment to **CSSB 11**:

Amend **CSSB 11**, in SECTION 1 of the bill, by striking added Section 181.001(b)(3), Health and Safety Code (House committee printing, page 2, lines 16-26), and substituting the following:

(3) "Marketing" means the promotion or advertisement, by a covered entity, of specific products or services if the covered entity receives, directly or indirectly, a financial incentive or remuneration from a third party for the use, access, or disclosure of protected health information. Marketing does not include:

(A) a communication, for treatment or health care operations, by a health care provider, health plan, or participants in an organized health care arrangement or their affiliated covered entities or business associates within the meaning of those terms under the Health Insurance Portability and Accountability Act and Privacy Standards; or

(B) a communication that complies with the Health Insurance Portability and Accountability Act and Privacy Standards and informs the public of endowment and development activities by a tax-exempt, nonprofit charitable hospital or foundation, or that requests contributions for a nonprofit charitable hospital or foundation.

Amendment No. 4

Representative Maxey offered the following amendment to Amendment No. 3:

Amend the Delisi amendment to **CSSB 11**, in added Section 181.001(b)(3), Health and Safety Code, by striking "from a third party" (page 1, line 8, Delisi floor amendment).

Amendment No. 4 was adopted without objection.

Amendment No. 3, as amended, was adopted without objection.

Amendment No. 5

Representative Maxey offered the following amendment to **CSSB 11**:

Amend **CSSB 11** as follows:

(1) In SECTION 1 of the bill, in added Section 181.002, Health and Safety Code (House committee printing, page 2, line 27), between the period and "This" insert "(a)".

(2) In SECTION 1 of the bill, in added Section 181.002, Health and Safety Code (House committee printing, page 3, between lines 2 and 3), insert the following subsection:

(b) To the extent that this chapter conflicts with another law with respect to protected health information collected by a governmental body or unit, this chapter controls.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Maxey offered the following amendment to **CSSB 11**:

Amend **CSSB 11**, in SECTION 1 of the bill, in added Section 181.051, Health and Safety Code (House committee printing, page 3, lines 10-11), by striking "Section 181.152" and substituting "Subchapter D".

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Maxey offered the following amendment to **CSSB 11**:

Amend **CSSB 11** as follows:

(1) In SECTION 2 of the bill, in added Article 28B.07, Insurance Code (House committee printing, page 19, line 7), strike "(a)".

(2) In SECTION 2 of the bill, strike added Article 28B.07(b), Insurance Code (House committee printing, page 19, lines 9-12).

(3) In SECTION 2 of the bill, in added Chapter 28B, Insurance Code (House committee printing, page 19, between lines 14 and 15), insert the following Articles:

Art. 28B.09. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The attorney general may institute an action for injunctive relief to restrain a violation of this chapter.

(b) In addition to the injunctive relief provided by Subsection (a), the attorney general may institute an action for civil penalties against a covered entity or health care entity for a violation of this chapter. A civil penalty assessed under this section may not be less than \$3,000 for each violation.

(c) If the court in which an action under Subsection (b) is pending finds that the violations have occurred with a frequency as to constitute a pattern or practice, the court may assess a civil penalty not to exceed \$250,000.

(b) The civil penalty authorized by this article is in addition to any other civil, administrative, or criminal action provided by law.

Art. 28B.10. DISCIPLINARY ACTION. In addition to the penalties prescribed by this chapter, a violation of this chapter by a licensee is subject to investigation and disciplinary proceedings, including probation or

suspension. Evidence of a pattern or practice of violations under this chapter may subject the licensee to license revocation.

Art. 28B.11. EXCLUSION FROM STATE PROGRAMS. In addition to the penalties prescribed by this chapter, a licensee shall be excluded from participating in any state-funded health care program if there is evidence that the licensee engaged in a pattern or practice of violating this chapter.

Art. 28B.12. AVAILABILITY OF OTHER REMEDIES. This chapter does not affect any right of a person under other law to bring a cause of action or otherwise seek relief with respect to conduct that is a violation of this chapter.

Amendment No. 7 was adopted without objection.

Amendment No. 8

Representative George offered the following amendment to **CSSB 11**:

Amend **CSSB 11** by adding the following appropriately numbered SECTIONS of the bill and renumbering the remaining SECTIONS of the bill as appropriate:

SECTION __. Section 161.032, Health and Safety Code, is amended to read as follows:

Sec. 161.032. RECORDS AND PROCEEDINGS CONFIDENTIAL.

(a) The records and proceedings of a medical committee are confidential and are not subject to court subpoena.

(b) Notwithstanding Section 551.002, Government Code, the following proceedings may be held in a closed meeting following the procedures prescribed by Subchapter E, Chapter 551, Government Code:

(1) a [A] proceeding of a medical peer review committee, as defined by Section 151.002, Occupations Code [1.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes)], or medical committee;[:] or

(2) a meeting of the governing body of a public hospital, hospital district, [or] hospital authority, or health maintenance organization of a public hospital, hospital authority, hospital district, or state-owned teaching hospital at which the governing body receives records, information, or reports provided by a medical committee, [or] medical peer review committee, or compliance officer [is not subject to Chapter 551, Government Code].

(c) Records, information, or reports of a medical committee, [or] medical peer review committee, or compliance officer and records, information, or reports provided by a medical committee, [or] medical peer review committee, or compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under Chapter 552, Government Code.

(d) [(b)] The records and proceedings may be used by the committee and the committee members only in the exercise of proper committee functions.

(e) The records, information, and reports received or maintained by a compliance officer retain the protection provided by this section only if the records, information, or reports are received, created, or maintained in the exercise of a proper function of the compliance officer as provided by the Office of Inspector General of the United States Department of Health and Human Services.

(f) [(e)] This section and Subchapter A, Chapter 160, Occupations Code [Section 5.06, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes)], do not apply to records made or maintained in the regular course of business by a hospital, health maintenance organization, medical organization, university medical center or health science center, hospital district, hospital authority, or extended care facility.

SECTION __. The heading to Subchapter D, Chapter 161, Health and Safety Code, is amended to read as follows:

SUBCHAPTER D. MEDICAL COMMITTEES, [AND] MEDICAL
PEER REVIEW COMMITTEES, AND COMPLIANCE OFFICERS

Amendment No. 8 was adopted without objection.

CSSB 11, as amended, was passed to third reading. (Heflin recorded voting no)

(Speaker in the chair)

CONSTITUTIONAL AMENDMENTS CALENDAR SENATE JOINT RESOLUTIONS SECOND READING

The following resolutions were laid before the house and read second time:

SJR 49 ON SECOND READING (Thompson - House Sponsor)

SJR 49, A joint resolution proposing a constitutional amendment to promote uniformity in the collection, deposit, reporting, and remitting of civil and criminal fees.

Amendment No. 1

Representative Thompson offered the following amendment to **SJR 49**:

Amend **SJR 49**, in SECTION 1, in added Section 46, Article III, Texas Constitution, after Subsection (c) (house committee report, page 1, between lines 19 and 20), by inserting a new Subsection (d) to read as follows:

(d) A fee to which this section applies may take effect on a date before the next January 1 after the regular session at which the bill adopting the fee was enacted only if the bill is passed by a record vote of two-thirds of all the members elected to each house of the legislature on final consideration in each house.

Amendment No. 1 was adopted without objection.

A record vote was requested.

SJR 49, as amended, was adopted by (Record 505): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Hope;

Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Oliveira; West.

Absent — Burnam; Homer; Swinford.

STATEMENT OF VOTE

When Record No. 505 was taken, my vote failed to register. I would have voted yes.

Homer

SJR 6 ON SECOND READING (Gallego - House Sponsor)

SJR 6, A joint resolution proposing a constitutional amendment authorizing the legislature to exempt from ad valorem taxation tangible personal property held at certain locations only temporarily for assembling, manufacturing, processing, or other commercial purposes.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Oliveira, Representative Gallego offered the following committee amendment to **SJR 6**:

Amend **SJR 6** by striking Subsection (c) and inserting the following:

(c) A property owner who is eligible to receive the exemption authorized by Section 1-j of this article may apply for the exemption authorized by the legislature under this section in the manner provided by general law, subject to the provisions of Subsection (d). A property owner who receives the exemption authorized by the legislature under this section is not entitled to receive the exemption authorized by Section 1-j of this article for the same property;

Amendment No. 1 was adopted without objection.

A record vote was requested.

SJR 6, as amended, was adopted by (Record 506): 129 Yeas, 12 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton;

Edwards; Ehrhardt; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Ritter; Sadler; Salinas; Smith; Smithee; Solis; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Nays — Bailey; Bonnen; Christian; Driver; Hardcastle; Hartnett; Madden; Reyna, E.; Seaman; Solomons; Williams; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Oliveira; West.

Absent — Eiland; Flores; Jones, E.; King, T.; Shields.

STATEMENTS OF VOTE

I was shown voting no on Record No. 506. I intended to vote yes.

Bonnen

When Record No. 506 was taken, I was in the house but away from my desk. I would have voted no.

T. King

I was shown voting no on Record No. 506. I intended to vote yes.

Seaman

When Record No. 506 was taken, I was in the house but away from my desk. I would have voted yes.

Shields

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 6).

SJR 32 ON SECOND READING (Solis - House Sponsor)

SJR 32, A joint resolution proposing a constitutional amendment authorizing municipalities to donate outdated or surplus firefighting equipment or supplies to underdeveloped countries.

A record vote was requested.

SJR 32 was adopted by (Record 507): 143 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Flores; Gallego; Garcia; George; Geren; Giddings; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nay — Longoria.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Oliveira; West.

Absent — Farrar; Glaze.

BILLS ADDED TO LOCAL, CONSENT, AND RESOLUTIONS CALENDAR

On motion of Representative Y. Davis and by unanimous consent, the following bills were added to the Local, Consent, and Resolutions Calendar for Wednesday, May 23:

HR 983, SB 252, SB 263, SB 279, SB 283, SB 486, SB 505, SB 586, SB 720, SB 988, SB 998, SB 1016, SB 1051, SB 1186, SB 1260, SB 1293, SB 1315, SB 1415, SB 1417, SB 1470, and SB 1713.

RULES SUSPENDED - CONSIDERATION OF CALENDAR

Representative Brimer moved to suspend Rule 6, Section 15 of the House Rules to allow the second reading bills on the General State Calendar as printed on the supplemental calendar for Tuesday, May 22, to be considered before the third reading bills on the General State Calendar that appear on Tuesday's supplemental calendar.

The motion prevailed.

GENERAL STATE CALENDAR SENATE BILLS SECOND READING

The following bills were laid before the house and read second time:

SB 248 ON SECOND READING
(Brimer - House Sponsor)

SB 248, A bill to be entitled An Act relating to the exemption from ad valorem taxation of motor vehicles leased for personal use.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Y. Davis, Representative Brimer offered the following committee amendment to **SB 248**:

Amend **SB 248** by striking subsection (b) on page 1, lines 14-17 of the Senate engrossment, and inserting the following:

(b) For purposes of this section, a motor vehicle is presumed to be used primarily for activities that do not involve the production of income if 50 percent or more of the miles it is driven in a year are for non-income producing purposes.

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Y. Davis, Representative Brimer offered the following committee amendment to **SB 248**:

Amend **SB 248** by adding the following language after subsection (h) on page 3, Senate engrossment:

(i) In addition to the requirements of subsections (c) and (d), the comptroller by rule shall prescribe a property report form to be completed by the lessor describing the leased motor vehicles which the lessor owns. The property report form shall require the lessor to list each leased vehicle the lessor owns on January 1, to provide the year, make, model and vehicle identification number of each leased vehicle, and to provide the name of the lessee, the address at which the vehicle is kept, and an indication of whether the lessee has designated the vehicle as not held for the production and not used for the production of income.

(j) The lessor shall provide the chief appraiser with the completed property report form adopted by the comptroller in the manner provided by Subchapter B, Chapter 22, of the code.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Woolley offered the following amendment to **SB 248**:

Amend **SB 248** as follows:

(1) In SECTION of the bill, at the end of added Subsection (f), Section 11.252, Tax Code (Committee Printing, page 2, line 25), add:

"This subsection does not apply to a municipality in which a majority of the qualified voters voting at the constitutional amendment election held November 2, 1999, voted in favor of **SJR 21**, 76th Legislature, Regular Session, 1999. A municipality in which a majority of the qualified voters voting at that election voted in favor of **SJR 21** may not provide for the taxation of leased motor vehicles under this subsection."

(2) In SECTION 1 of the bill, strike added Subsection (g), Section 11.252, Tax Code (Committee Printing, page 2, line 26-page 3, line 1), and reletter subsequent subsections accordingly.

Amendment No. 3 was adopted without objection.

SB 248, as amended, was passed to third reading.

CSSB 985 ON SECOND READING
(Y. Davis - House Sponsor)

CSSB 985, A bill to be entitled An Act relating to authorizing the governing body of a municipality to enter into a tax abatement agreement with the owner of a leasehold interest in real property that is located in a reinvestment zone.

CSSB 985 was passed to third reading.

SB 18 ON SECOND READING
(Hinojosa - House Sponsor)

SB 18, A bill to be entitled An Act relating to the creation of the offense of interfering with an emergency telephone call.

SB 18 was passed to third reading.

SB 19 ON SECOND READING
(Dunnam, et al. - House Sponsors)

SB 19, A bill to be entitled An Act relating to the improvement of children's health through daily physical activity in public schools and a coordinated approach by public schools to prevent obesity and certain diseases.

Amendment No. 1

Representative Smith offered the following amendment to **SB 19**:

Amend **SB 19** (house committee report) as follows:

(1) In SECTION 1 of the bill, in added Subsection (l), Section 28.002, Education Code (page 1, line 8), between "State Board of Education" and "by", insert ", after consulting with educators, parents, and medical professionals.".

(2) In SECTION 1 of the bill, in added Subsection (l), Section 28.002, Education Code (page 1, line 12), between "curriculum" and the period, insert "or through structured activity during a school campus's daily recess, except that the board may not require more than 30 minutes of daily physical activity".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Najera offered the following amendment to **SB 19**:

Amend **SB 19** as follows:

(1) In SECTION 2 of the bill (House Committee Report, page 1, line 17), strike "Section 38.013" and substitute "Sections 38.013 and 38.014".

(2) Immediately following SECTION 2 of the bill (House Committee Report, page 2, between lines 3 and 4), insert the following:

Sec. 38.014. IMPLEMENTATION OF COORDINATED HEALTH PROGRAM FOR ELEMENTARY SCHOOL STUDENTS. (a) Each school district shall:

(1) participate in appropriate training for the implementation of the program approved by the agency under Section 38.013; and

(2) implement the program in each elementary school in the district.

(b) The agency, in cooperation with the Texas Department of Health, shall adopt a schedule for regional education service centers to provide necessary training under this section.

(3) Between SECTIONS 3 and 4 of the bill, insert the following new SECTION, appropriately numbered, and renumber the subsequent SECTIONS accordingly:

SECTION ____. Not later than September 1, 2007, each school district must participate in the training required by Section 38.014, Education Code, as added by this Act.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Capelo offered the following amendment to **SB 19**:

Amend **SB 19**, House Committee Report, as follows:

(1) In SECTION 2 of the bill (page 1, line 17), strike "Section 38.013" and substitute "Sections 38.013 and 38.014".

(2) In SECTION 2 of the bill (page 2, between lines 3 and 4), insert the following:

Sec. 38.014. FOOD AND BEVERAGES IN VENDING MACHINES. (a) In this section, "food of minimal nutritional value" has the meaning assigned by 7 C.F.R. Section 210.11(a)(2) and its subsequent amendments. The term includes a food or beverage listed as a food of minimal nutritional value under federal regulations.

(b) The board of trustees of a school district, a district administrator, or a school administrator may not enter into a contract or other agreement under which a person is to provide food or beverages for a vending machine on a school campus unless, as part of the agreement, that person also:

(1) agrees that not more than 50 percent of the selections offered when the vending machine is filled or refilled will be food of minimal nutritional value;

(2) agrees to provide to the school principal or the principal's designee, each time the vending machine is filled or refilled, a list stating:

(A) each food or beverage placed in the vending machine;
and

(B) the number of items of each food or beverage listed under Paragraph (A); and

(3) agrees to provide information, including the list provided under federal regulations of foods of minimal nutritional value, to the school principal to assist school employees in recognizing food of minimal nutritional value.

(c) This section does not apply to a contract or other agreement under which a person is to provide food or beverages for a vending machine on a

school campus if the vending machine is located in a place on the campus in which students generally are not permitted, such as the teachers' lounge.

(3) In SECTION 3 of the bill (page 2, line 4), strike "This Act applies" and substitute "Sections 28.002(l) and 38.013, Education Code, as added by this Act, apply".

(4) Between SECTIONS 3 and 4 of the bill (page 2, between lines 5 and 6), insert the following new SECTION:

SECTION 4. Section 38.014, Education Code, as added by this Act, applies only to a contract or other agreement entered into on or after the effective date of this Act.

(5) Renumber existing SECTION 4 of the bill as SECTION 5.

Representative Grusendorf raised a point of order against further consideration of Amendment No. 3 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The speaker sustained the point of order.

The ruling precluded further consideration of the amendment.

Amendment No. 4

Representative Coleman offered the following amendment to **SB 19**:

Amend **SB 19**, house committee report, as follows:

(1) Between existing SECTIONS 1 and 2 of the bill (page 1, between lines 15 and 16), insert the following new SECTION:

SECTION 2. Section 28.004, Education Code, is amended to read as follows:

Sec. 28.004. LOCAL SCHOOL HEALTH EDUCATION ADVISORY COUNCIL AND HEALTH EDUCATION [HUMAN SEXUALITY] INSTRUCTION. (a) The board of trustees of each school district shall establish a local school health education advisory council to assist the district in ensuring that local community values are reflected in the district's health education instruction.

(b) A school district must consider the recommendations of the local school health education advisory council before changing the district's health education curriculum or instruction.

(c) The local school health education advisory council's duties include recommending:

(1) the number of hours of instruction to be provided in health education;

(2) health education curriculum appropriate for specific grade levels that may include a coordinated health education program designed to prevent obesity, cardiovascular disease, and Type II diabetes through coordination of:

(A) health education;

(B) physical education;

(C) nutritional services;

(D) parental involvement; and

(E) instruction to prevent the use of tobacco; and

(3) appropriate grade levels and methods of instruction for human sexuality instruction.

(d) The board of trustees shall appoint members to the local school health education advisory council. A majority of the members must be persons who are parents of students enrolled in the district and who are not employed by the district. The board of trustees also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified under this subsection:

- (1) public school teachers;
- (2) public school administrators;
- (3) district students;
- (4) health care professionals;
- (5) the business community;
- (6) law enforcement;
- (7) senior citizens;
- (8) the clergy; and
- (9) nonprofit health organizations.

(e) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the board of trustees ~~[of a school district]~~ with the advice of the local school health education advisory council ~~[established under Subsection (e)]~~ and must:

(1) present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;

(2) devote more attention to abstinence from sexual activity than to any other behavior;

(3) emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;

(4) direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with human immunodeficiency virus or acquired immune deficiency syndrome; and

(5) teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

~~(f) [(b)]~~ A school district may not distribute condoms in connection with instruction relating to human sexuality.

~~(g) [(e)]~~ A school district that provides human sexuality instruction may separate students according to sex for instructional purposes.

~~(h) [(d)]~~ The board of trustees ~~[of a school district]~~ shall determine the specific content of the district's instruction in human sexuality, in accordance with Subsections ~~(e) [(a)], (f) [(b)], and (g) [(e)]~~.

~~(i) [A change in health curriculum content or instruction may not be made before considering the recommendations of the local health education advisory council.]~~

~~[(e) A school district shall establish a local health education advisory~~

~~council to assist the district in ensuring that local community values and health issues are reflected in the district's human sexuality instruction.~~

~~[(f) The council's duties include:~~

~~[(1) recommending appropriate grade levels for human sexuality instruction;~~

~~[(2) recommending the methods of instruction to be used by a teacher in human sexuality instruction education; and~~

~~[(3) recommending the number of hours of instruction to be provided in health education.~~

~~[(g) The council:~~

~~[(1) must include persons who represent diverse views in the community about human sexuality instruction;~~

~~[(2) must include parents of students enrolled in the district as a majority of the council; and~~

~~[(3) may include teachers, school administrators, students, health care professionals, members of the business community, law enforcement representatives, senior citizens, clergy, or other interested persons.~~

~~[(h)] A school district shall notify a parent of each student enrolled in the district of:~~

~~(1) the basic content of the district's human sexuality instruction to be provided to the student; and~~

~~(2) the parent's right to remove the student from any part of the district's human sexuality instruction.~~

~~[(i)] [(f)] A school district shall make all curriculum materials used in the district's human sexuality instruction available for reasonable public inspection.~~

~~(2) In existing SECTION 2 of the bill (page 1, line 16), strike "SECTION 2" and substitute "SECTION 3".~~

Amendment No. 5

Representative Grusendorf offered the following amendment to Amendment No. 4:

Amend the Coleman amendment to **SB 19** in the first sentence of Sec.28.004(a) by striking "shall" and substituting "may"

Amendment No. 5 was withdrawn.

Amendment No. 4 was adopted without objection.

SB 19, as amended, was passed to third reading. (Clark recorded voting no)

CSSB 712 ON SECOND READING (Averitt and Eiland - House Sponsors)

CSSB 712, A bill to be entitled An Act relating to the privacy of certain information provided by consumers to insurers and other related entities; providing a civil penalty.

Amendment No. 1

Representative Averitt offered the following amendment to **CSSB 712**:

Amend **CSSB 712** as follows:

(1) On page 1, line 12, between "company" and ".", add ";and the term "control", including the terms "controls", "controlled by" and "under common control" has the meaning assigned that term by Section 2(d), Article 21.49-1 of the Texas Insurance Code."

(2) On page 2, line 7, between "agent" and "or", insert ", employee".

(3) On page 2, line 20, strike "chapter" and substitute "title".

(4) On page 3, line 12 and line 15, between "general" and "may", insert ",after conferring with the commissioner,"

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Averitt offered the following amendment to **CSSB 712**:

Amend **CSSB 712**, in SECTION 1 of the bill, in proposed Article 28A.51, Insurance Code, by striking Subsection (c) of that article (house committee printing page 2, line 26, through page 3, line 3).

Amendment No. 2 was adopted without objection.

CSSB 712, as amended, was passed to third reading.

SB 1727 ON SECOND READING (Hardcastle - House Sponsor)

SB 1727, A bill to be entitled An Act relating to staff development provided by school districts.

Amendment No. 1

Representative Shields offered the following amendment to **SB 1727**:

Amend **SB 1727**, house committee report, as follows:

(1) In SECTION 1 of the bill, in added Paragraph (B), Subdivision (2), Subsection (a), Section 21.451, Education Code (page 1, line 20), strike "and".

(2) In SECTION 1 of the bill, between added Subdivisions (2) and (3), Subsection (a), Section 21.451, Education Code (page 1, between lines 20 and 21), insert the following new Subdivision:

(3) must include training concerning parental rights under Chapter 26;
and

(3) In SECTION 1 of the bill, in added Subdivision (3), Subsection (a), Section 21.451, Education Code (page 1, line 21), strike "(3)" and substitute "(4)".

Amendment No. 1 was withdrawn.

Amendment No. 2

Representatives Salinas and Kitchen offered the following amendment to **SB 1727**:

Amend **SB 1727**, house committee report, as follows:

(1) Between the enacting clause and SECTION 1 of the bill (page 1, between lines 3 and 4) insert the following new SECTION:

SECTION 1. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.058 to read as follows:

Sec. 21.058. PROGRAM TO PROMOTE CERTIFICATION BY A NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS. (a) The board shall establish a program to encourage, assist, and provide financial assistance to public school teachers and other educators who seek certification by the National Board for Professional Teaching Standards.

(b) For purposes of Subsection (a), the board may:

(1) accept gifts, grants, and other donations; and

(2) use funds appropriated to the board that may be used for that purpose.

(c) The standing committee in each house of the legislature with primary responsibility for primary and secondary education is encouraged to conduct one or more interim studies to examine:

(1) the number of public school teachers and other public school educators in this state who have applied for certification by the National Board for Professional Teaching Standards;

(2) the subject in which or grade level for which a teacher or other educator holds certification by the National Board for Professional Teaching Standards;

(3) the amount of federal funds available to pay expenses associated with the process of certification by the National Board for Professional Teaching Standards, including expenses associated with applying for that certification;

(4) the amount of funds, including appropriated funds, that the board uses for purposes of this section; and

(5) the amount of financial assistance, including stipends, paid by other states to encourage educators to seek certification by the National Board for Professional Teaching Standards.

(2) Between existing SECTIONS 1 and 2 of the bill (page 1, between lines 23 and 24), insert the following new SECTION:

SECTION 3. Section 21.458, Education Code, is amended by adding Subsection (d) to read as follows:

(d) A teacher who obtains certification by the National Board for Professional Teaching Standards satisfies staff development requirements under this section for a five-year period beginning on the date of certification.

(3) Renumber SECTIONS of the bill accordingly

Representative Grusendorf raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The speaker sustained the point of order.

The ruling precluded further consideration of the amendment.

SB 1727 was passed to third reading.

POSTPONED BUSINESS

The following bill was laid before the house as postponed business:

SB 1590 ON SECOND READING
(Naishtat - House Sponsor)

SB 1590, A bill to be entitled An Act relating to the admissibility of evidence relating to certain Texas Department of Human Services investigations or surveys in certain actions or proceedings.

SB 1590 was read second time on May 17, postponed until May 21, postponed until 2 p.m. today, postponed until 6 p.m. today, postponed until 8 p.m. today, and was again postponed until this time.

Representative Naishtat moved to postpone consideration of **SB 1590** until February 15, 2002.

The motion prevailed without objection.

GENERAL STATE CALENDAR
(consideration continued)

SB 896 ON SECOND READING
(Hamric and Ramsay - House Sponsors)

SB 896, A bill to be entitled An Act relating to funds and taxes for county roads.

Amendment No. 1

Representative Keffer offered the following amendment to **SB 896**:

SB 896 is amended by adding a new Section 3 to read as follows and renumbering all following sections accordingly:

SECTION 3. Subtitle C, Title 6, Transportation Code, is amended by adding Chapter 258 to read as follows:

CHAPTER 258. ACQUISITION OF PUBLIC INTEREST
IN ROAD BY ADOPTION OF COUNTY ROAD MAP

Sec. 258.001. ACQUISITION OF PUBLIC INTEREST IN ROAD. Notwithstanding Chapter 281, a county may acquire a public interest in a road as provided by this chapter.

Sec. 258.002. ADOPTION OF COUNTY ROAD MAP. (a) The commissioners court of a county may propose a county road map that includes each road in which the county claims a public interest:

(1) under Chapter 281 or other law; or

(2) as a result of having continuously maintained the road with public funds beginning before September 1, 1981.

(b) A commissioners court that proposes a county road map under this section shall hold a public meeting at which a person asserting a private right, title, or interest in a road in which the county has claimed a public interest may appear before the commissioners court to protest the county's claim. A person asserting a private right, title, or interest in a road may also file a written protest with the county judge at any time before the public meeting. The commissioners court shall appoint a jury of view consisting of five property owners who have no interest in the outcome of the protest to determine, by a majority vote after a public hearing and an examination of the county's road maintenance records and other information, the validity of the county's claim

of public interest in the road. A county has a valid claim in a road if it provides written records or other information documenting the county's continuous maintenance of the road beginning before September 1, 1981. The determination of the jury of view is binding on the commissioners court, and the commissioners court shall revise the proposed county road map accordingly.

(c) The commissioners court shall publish at least once a week in a newspaper of general circulation in the county for at least four consecutive weeks preceding the date of the public meeting a notice:

(1) advising the public that the commissioners court has proposed a county road map including each road in which the county claims a public interest;

(2) identifying a location at the courthouse at which the proposed map will be available to the public during regular business hours; and

(3) stating the date and location of the public meeting.

(d) The commissioners court shall display the proposed map at the location and during the time described in the notice from the date on which notice is first published through the date on which the commissioners court formally adopts the proposed map. The map must be legible and not less than one inch equals 2,000 feet in scale.

(e) The commissioners court may formally adopt the proposed map, as revised after public comment and a determination by the jury of view, only at a public meeting held before the 90th day following the date of the initial public meeting required by Subsection (b).

(f) If a person asserting a private right, title, or interest in a road that the county has included in the proposed map protests in writing or in person as provided by Subsection (b) before the conclusion of the public hearing, the county may not take possession of the road, but after the conclusion of the hearing the county may bring suit against the person for adverse possession of the right, title, or interest in the road.

(g) The county clerk shall keep a county road map adopted under this section in a place accessible to the public.

(h) The failure to include on a county road map adopted under this section a road in which the county has previously acquired a public interest by purchase, condemnation, dedication, or a court's final judgment of adverse possession does not affect the status of the omitted road.

(i) In this section, "continuous maintenance" means grading or other routine road maintenance beginning before September 1, 1981, and continuing until the date of protest.

Sec. 258.003. CONCLUSIVE EVIDENCE. Except as provided by Section 258.004, a county road map adopted under Section 258.002 is conclusive evidence of:

(1) the public's right of access over a road included on the map; and

(2) the county's authority to spend public money to maintain a road included on the map.

Sec. 258.004. CONTEST. (a) A person asserting a private right, title, or interest in a road in which a public interest is asserted under this chapter may contest the inclusion of the road in the county road map by filing a suit in a district court in the county in which the road is located not later than the

second anniversary of the date on which the county road map including the road was adopted.

(b) The county has the burden of proving that the county has continuously maintained, as that term is defined by Section 258.002, the road in question.

Sec. 258.005. TRANSFER OF INTEREST. (a) The commissioners court shall include a notice of its intention to consider adoption of the county road map with the ad valorem tax statements for the year before the adoption of a county road map under Section 258.002. If a property owner tenders a warranty deed to the county for property included in the right-of-way of a county road, the commissioners court shall accept and file the warranty deed.

(b) The commissioners court shall include a notice of the adoption of the county road map with the ad valorem tax statements for the year after the year in which the county adopts a map under Section 258.002. The notice must include a list of all roads in which the county has claimed a public interest by adoption of the map, the date of the adoption, and the date on which the statute of limitations will bar a landowner from filing a suit in district court to dispute the county's claim.

Sec. 258.006. TAX ABATEMENT; REVERSION OF INTEREST. (a) A private right, title, or interest, other than a mineral interest, held by a person in land underlying a road in which the county has acquired a public interest under this chapter is exempt from ad valorem taxation by any taxing authority.

(b) A right, title, or interest described in Subsection (a) reverts completely to the person who held the right, title, or interest at the time the county acquired the public interest in the land if the county ceases to maintain the road, and the person is liable for all ad valorem taxes levied on that right, title, or interest on or after the reversion.

(c) To levy and collect an ad valorem tax on a right, title, or interest described in Subsection (a) that has reverted to the landowner under Subsection (b), the taxing authority must obtain from the county an order stating that the county has ceased to maintain the road. The owner of the right, title, or interest will be liable for any ad valorem tax levied on the right, title, or interest on or after the date of the county's order.

Amendment No. 1 was adopted without objection.

SB 896, as amended, was passed to third reading.

CSSB 49 ON SECOND READING **(Naishtat - House Sponsor)**

CSSB 49, A bill to be entitled An Act relating to applying penalties to recipients of financial and nutritional assistance for certain drug- and alcohol-related convictions.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Telford on motion of Dunnam.

CSSB 49 - (consideration continued)

Representative Wohlgemuth moved to table **CSSB 49**.

A record vote was requested.

The motion to table prevailed by (Record 508): 81 Yeas, 58 Nays, 2 Present, not voting.

Yeas — Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Cook; Corte; Crabb; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Ehrhardt; Eiland; Elkins; Ellis; George; Geren; Goodman; Goolsby; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Junell; Keel; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Nixon; Pitts; Ramsay; Reyna, E.; Sadler; Seaman; Shields; Smithee; Solomons; Swinford; Talton; Truitt; Williams; Wohlgemuth; Woolley.

Nays — Alexander; Bailey; Bosse; Burnam; Capelo; Chavez; Coleman; Counts; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Farabee; Flores; Gallego; Garcia; Giddings; Gray; Gutierrez; Hinojosa; Hochberg; Hodge; Jones, J.; Kitchen; Lewis, G.; Longoria; Luna; Martinez Fischer; Maxey; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Olivo; Pickett; Puente; Rangel; Raymond; Reyna, A.; Ritter; Salinas; Solis; Thompson; Tillery; Turner, B.; Turner, S.; Uresti; Villarreal; Wilson; Wise; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C); Farrar.

Absent, Excused — Hilbert; Oliveira; Telford; West.

Absent — Glaze; Smith; Uher; Walker; Wolens.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 508. I intended to vote no.

Ehrhardt

I was shown voting present, not voting on Record No. 508. I intended to vote no.

Farrar

I was shown voting no on Record No. 508. I intended to vote yes.

Menendez

When Record No. 508 was taken, I was in the house but away from my desk. I would have voted yes.

Smith

**SB 1377 ON SECOND READING
(Thompson - House Sponsor)**

SB 1377, A bill to be entitled An Act relating to the authority of the state auditor to review the use of money collected as court costs.

Amendment No. 1

Representative Thompson offered the following amendment to **SB 1377**:

Amend **SB 1377** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 321, Government Code, is amended by adding Section 321.017 to read as follows:

Sec. 321.017. REVIEW AND OVERSIGHT OF FUNDS AND ACCOUNTS RECEIVING COURT COSTS. (a) The state auditor may review each fund and account into which money collected as a court cost is directed by law to be deposited to determine whether:

(1) the money is being used for the purpose or purposes for which the money is collected; and

(2) the amount of the court cost is appropriate, considering the purpose or purposes for which the cost is collected.

(b) The state auditor may perform reviews under this section as specified in the audit plan developed under Section 321.013.

(c) The state auditor shall make the findings of a review performed under this section available to the public and shall report the findings to the governor, the chief justice of the supreme court, the presiding judge of the court of criminal appeals, and the committee. The report may include the state auditor's recommendations for legislation or policy changes.

SECTION 2. (a) This Act takes effect September 1, 2001.

(b) Notwithstanding Section 321.017(b), Government Code, as added by this Act, the state auditor shall perform and complete a review described by Subsection (a) of that section and report the findings of the review before December 1, 2002.

Amendment No. 1 was adopted without objection.

SB 1377, as amended, was passed to third reading.

SB 139 ON SECOND READING

(Deshotel, Hinojosa, Villarreal, Miller, Danburg, et al. - House Sponsors)

SB 139, A bill to be entitled An Act relating to the prosecution of and punishment for the offense of harassment.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Keel, Representative Deshotel offered the following committee amendment to **SB 139**:

Amend **SB 139**, as follows:

Amend Section 1. Section 42.07(a)(2) by inserting the words "or household" after the word "family" and before the comma on line 1-18.

Amend Section 1. Section 42.07(b)(2) by inserting the words "and "household"" after "Family" on line 2-19 and by striking "Section" and replacing with "Chapter" on line 2-19; further amended by striking ".003" immediately proceeding "71" on line 2-20.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Garcia offered the following amendment to **SB 139**:

Amend **SB 139** by adding the following appropriately numbered SECTION of the bill and renumbering the remaining SECTIONS of the bill as appropriate:

SECTION __. Section 42.072(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the third degree [~~Class A misdemeanor~~], except that the offense is a felony of the second [~~third~~] degree if the actor has previously been convicted under this section.

Amendment No. 2 was adopted without objection.

SB 139, as amended, was passed to third reading.

SB 688 ON SECOND READING
(Chisum - House Sponsor)

SB 688, A bill to be entitled An Act relating to requirements for public notice and hearing on applications for air quality multiple plant permits.

Amendment No. 1

Representative Chisum offered the following amendment to **SB 688**:

Amend **SB 688** by adding a new SECTION 3, SECTION 4, and SECTION 5 on page 4, between lines 22 and 23 to read as follows and renumbering the remaining SECTION appropriately:

SECTION 3. Subchapter M, Chapter 5, Water Code, is amended by adding Section 5.557 to read as follows:

Sec. 5.557. DIRECT REFERRAL TO CONTESTED CASE HEARING. (a) Immediately after the executive director issues a preliminary decision on an application under Section 5.553, the commission, on the request of the applicant or the executive director, shall refer the application directly to the State Office of Administrative Hearings for a contested case hearing on whether the application complies with all applicable statutory and regulatory requirements.

(b) Sections 5.554-5.556 of this code and Sections 2003.047(e) and (f), Government Code, do not apply to an application referred for a hearing under Subsection (a).

(c) Notwithstanding Subsection (b), the commission by rule shall provide for public comment and the executive director's response to public comment to be entered into the administrative record of decision on an application.

SECTION 4. Section 382.056(n), Health and Safety Code, is amended to read as follows:

(n) Except as provided by Section 382.0561, the commission shall consider a request that the commission reconsider the executive director's decision or hold a public hearing in accordance with the procedures provided by Sections [~~Section~~] 5.556 and 5.557, Water Code.

SECTION 5. The Texas Natural Resource Conservation Commission shall adopt rules to implement Section 5.557, Water Code, as added by this Act, and Section 382.056(n), Health and Safety Code, as amended by this Act, as soon as is necessary for the rules to take effect on or before January 1, 2002.

Amendment No. 1 was adopted without objection.

SB 688, as amended, was passed to third reading.

CSSB 161 ON SECOND READING
(Naishtat - House Sponsor)

CSSB 161, A bill to be entitled An Act relating to authorizing transitional support services to former recipients of Temporary Assistance for Needy Families (TANF) benefits.

CSSB 161 was passed to third reading.

SB 173 ON SECOND READING
(Hinojosa - House Sponsor)

SB 173, A bill to be entitled An Act relating to the refund of cash to a surety in a criminal case.

Amendment No. 1

Representative Hinojosa offered the following amendment to **SB 173**:

Amend **SB 173** as follows:

(1) In SECTION 1 of the bill, in proposed Article 17.02, Code of Criminal Procedure (House Committee Report, page 1, line 13), between "same" and the period, insert ". A court or magistrate may not authorize a defendant or any person acting on behalf of the defendant to deposit cash in an amount less than the full amount of the bail that has been set by the court or magistrate".

(2) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill appropriately:

SECTION __. Article 17.03(a), Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsection (b) of this article, a magistrate may, in the magistrate's discretion, release the defendant on his personal bond. A court or magistrate may not require the deposit of money or any other security as a condition of release on personal bond ~~[without sureties or other security]~~.

Amendment No. 1 was adopted without objection.

SB 173, as amended, was passed to third reading.

CSSB 527 ON SECOND READING
(Naishtat - House Sponsor)

CSSB 527, A bill to be entitled An Act relating to taking regulatory action against assisted living facilities, including the imposition of administrative penalties.

Amendment No. 1

Representative Williams offered the following amendment to **CSSB 527**:

Amend **CSSB 527** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION _____. Section 247.004, Health and Safety Code, is amended to read as follows:

Sec. 247.004. EXEMPTIONS. This chapter does not apply to:

(1) a boarding facility that has rooms for rent and that may offer community meals, light housework, meal preparation, transportation, grocery shopping, money management, or laundry services but that does not provide personal care services;

(2) an establishment conducted by or for the adherents of the Church of Christ, Scientist, for the purpose of providing facilities for the care or treatment of the sick who depend exclusively on prayer or spiritual means for healing without the use of any drug or material remedy if the establishment complies with local safety, sanitary, and quarantine ordinances and regulations;

(3) a facility conducted by or for the adherents of a qualified religious society classified as a tax-exempt organization under an Internal Revenue Service group exemption ruling for the purpose of providing personal care services without charge solely for the society's professed members or ministers in retirement, if the facility complies with local safety, sanitation, and quarantine ordinances and regulations; ~~or~~

(4) a facility that provides personal care services only to persons enrolled in a program that is funded in whole or in part by the Texas Department of Mental Health and Mental Retardation and that is monitored by the Texas Department of Mental Health and Mental Retardation or its designated local authority in accordance with standards set by the Texas Department of Mental Health and Mental Retardation; or

(5) a facility that complies with local safety, sanitation, and quarantine ordinances and regulations and:

(A) provides residential services, vocational training, and personal care services only to developmentally disabled adults;

(B) serves as an educational or research facility for one or more institutions of higher education; and

(C) is owned or operated by an organization that is exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization under Section 501(c)(3) of the code.

Amendment No. 1 was adopted without objection.

CSSB 527, as amended, was passed to third reading.

SB 544 ON SECOND READING
(Smithee - House Sponsor)

SB 544, A bill to be entitled An Act relating to requiring health maintenance organizations to provide periodic health evaluations.

Amendment No. 1

Representative Janek offered the following amendment to **SB 544**:

Amend **SB 544** as follows:

(1) On page 1 add the following new sections and renumber the subsequent section appropriately, "SECTION 2. The Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) is amended by adding Section 39 to read as follows:

Sec. 39. CREDENTIALING OF PHYSICIANS AND PROVIDERS.

(a) Rules adopted by the commissioner under Section 37 of this Act that relate to implementation and maintenance by a health maintenance organization of a process for selecting and retaining affiliated physicians and providers must comply with:

(1) this section; and

(2) standards promulgated by the National Committee for Quality Assurance, to the extent those standards do not conflict with other laws of this state.

(b) The commissioner shall require a health maintenance organization to verify that a physician's license to practice medicine and any other certificate the physician is required to hold, including a certificate issued by the Department of Public Safety of the State of Texas or the federal Drug Enforcement Agency or a certificate issued under the Medicare program, is valid as of the date of initial credentialing and on the date of each recredentialing.

(c) The commissioner shall require a health maintenance organization that conducts a site visit for the purpose of initial credentialing to evaluate during the visit a site's accessibility, appearance, space, medical or dental recordkeeping practices, availability of appointments, and confidentiality procedures. The commissioner may not require the health maintenance organization to evaluate the appropriateness of equipment during the site visit.

(d) The commissioner may not require that a health maintenance organization:

(1) formally recredential physicians or providers more frequently than once in any three-year period;

(2) verify the validity of a license or certificate held by a physician other than as of the date of initial credentialing or recredentialing of the physician;

(3) use clinical personnel to perform a site visit for initial credentialing of a physician or provider unless clinical review is needed during the site visit; or

(4) require a site visit be performed for recredentialing of a physician or provider.

(e) This section does not preclude a health maintenance organization from performing a site visit of a physician or provider at any time for cause, including a complaint made by a member or another external complaint made to the health maintenance organization.

SECTION 3. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.58D to read as follows:

Art. 21.58D. STANDARDIZED FORM FOR VERIFICATION OF PHYSICIAN CREDENTIALS

Sec. 1. DEFINITION. In this article, "physician" means an individual licensed to practice medicine in this state.

Sec. 2. STANDARDIZED FORM. (a) The commissioner by rule shall:

(1) adopt a standardized form for the verification of the credentials of a physician; and:

(2) require that a public or private hospital, a health maintenance

organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), or a preferred provider organization operating under Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, use the form for verification of credentials.

(b) In adopting a form under Subsection (a) of this section, the commissioner shall consider any credentialing application form that is widely used in this state.

SECTION 4. (a) The Texas State Board of Medical Examiners shall study the establishment of a program for standardized credentials verification through using a credentialing information system.

(b) Not later than January 1, 2003, the Texas State Board of Medical Examiners shall report on its recommendations for proposed legislation, based on the study conducted under Subsection (a) of this section, to:

- (1) the governor;
- (2) the lieutenant governor; and
- (3) the speaker of the house of representatives."

(2) On page 1, line 19, insert the following after the period and before "This": "Sections 2, 3 and 4 of this Act take effect September 1, 2001. Section 1. of."

Amendment No. 1 was adopted without objection.

SB 544 as amended, was passed to third reading.

CSSB 581 ON SECOND READING **(Counts - House Sponsor)**

CSSB 581, A bill to be entitled An Act relating to document preparation costs related to certain mental health proceedings.

Amendment No. 1

Representative Counts offered the following amendment to **CSSB 581**:

Amend **CSSB 581** in Section 1 of the bill, at the end of amended Subsection (k), Section 574.031, Health and Safety Code (house committee printing, page 1, line 13), by adding:

The court may award as court costs fees for other costs of a mental health proceeding against the county responsible for the payment of the costs of the hearing under Section 571.018.

Amendment No. 1 was adopted without objection.

CSSB 581, as amended, was passed to third reading.

SB 689 ON SECOND READING **(Chisum - House Sponsor)**

SB 689, A bill to be entitled An Act relating to the definition of hazardous waste.

Amendment No. 1

Representative Wilson offered the following amendment to **SB 689**:

Amend **SB 689** by adding the following appropriately numbered SECTION:

SECTION _____. Section 361.003, Health and Safety Code is amended by adding Subdivision (40) to read as follows:

(40) "Low-level radioactive hazardous waste" means a solid waste, or a combination of solid wastes, which:

(A) because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed;

(B) is identified by the commission as a hazardous waste by rule, provided that the rules implementing this subdivision shall be consistent with, and not more stringent than necessary to maintain state program authorization under, the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.); or

(C) is included in Section 401.004, Health and Safety Code.

SECTION _____. Section 401.203, Health and Safety Code, is repealed.

Representative Burnam raised a point of order against further consideration of Amendment No. 1 under Rule 11, Sections 2 and 3 of the House Rules on the grounds that it is not germane to the bill and would change the original purpose of the bill.

The point of order was withdrawn.

Amendment No. 1 was withdrawn.

Amendment No. 2

Representative Wilson offered the following amendment to **SB 689**:

Amend **SB 689** by adding the following appropriately numbered SECTION:

SECTION _____. Section 361.003, Health and Safety Code is amended by adding Subdivision (40) to read as follows:

(40) "Low-level radioactive hazardous waste" means a solid waste, or a combination of solid wastes, which:

(A) because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored by a public or private facility, transported, or disposed of or otherwise managed;

(B) is identified by the commission as a hazardous waste by rule, provided that the rules implementing this subdivision shall be consistent with, and not more stringent than necessary to maintain state program authorization

under, the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.); or

(C) is included in Section 401.004, Health and Safety Code.

Representative Villarreal raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The point of order was withdrawn.

Amendment No. 3

Representative Maxey offered the following amendment to Amendment No. 2:

In **SB 689**:

Strike subsection (B) of the Wilson amendment.

Amendment No. 3 failed of adoption.

Amendment No. 4

Representative Talton offered the following amendment to Amendment No. 2:

Amend the Wilson amendment to **SB 689** by striking Subdivision (C) of added Section 361.003(40), Health and Safety Code.

Representative Maxey raised a point of order against further consideration of **SB 689** under Rule 8, Section 13(c) of the House Rules on the grounds that the time for consideration of senate bills on second reading had passed.

The speaker sustained the point of order.

The ruling precluded further consideration of the bill.

RECESS

Representative Yarbrough moved that the house recess until 10 a.m. today in memory of Harris County Deputy Joseph N. Dennis, who was killed in the line of duty on May 22.

The motion prevailed without objection.

The house accordingly, at 12:04 a.m. Wednesday, May 23, recessed until 10 a.m. today, Wednesday, May 23.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HCR 299 (By Dunnam), Congratulating the Central Texas Labor Council, AFL-CIO, on its 100th anniversary.

To Rules & Resolutions.

HR 1152 (By Ellis), Honoring Tom Myers on his retirement as the choir director of Livingston High School.

To Rules & Resolutions.

HR 1154 (By J. Jones), Honoring Neall Rose of Dallas as she retires as board chair of Educational First Steps.

To Rules & Resolutions.

HR 1155 (By J. Jones), Honoring Danielle Copeland of Dallas on her retirement.

To Rules & Resolutions.

HR 1156 (By J. Jones), In memory of Evia Mooney of Dallas.

To Rules & Resolutions.

HR 1157 (By Kuempel), Honoring Elton Bohmann of Seguin for his significant accomplishments.

To Rules & Resolutions.

HR 1158 (By Giddings), Welcoming a visiting delegation from the Rivers State House of Assembly from Nigeria.

To Rules & Resolutions.

HR 1159 (By Ellis), Honoring Bobby Kees Marks on his retirement as president of Sam Houston State University.

To Rules & Resolutions.

HR 1160 (By B. Turner), Congratulating Kyle Mitchell of Bangs on becoming a finalist in the 2001 Craftsman/National Science Teachers Association Young Inventors contest.

To Rules & Resolutions.

HR 1162 (By Hardcastle), Congratulating the state qualifiers from the Vernon High School track team on their athletic achievements.

To Rules & Resolutions.

HR 1165 (By Merritt), Honoring Evelyn Blalock and Roy Pace for teaching students about the SNAG Golf program.

To Rules & Resolutions.

HR 1166 (By Merritt), Honoring Kayla Bowden and Lucy Flores on winning the state UIL Class 3A girls doubles tennis championship.

To Rules & Resolutions.

HR 1168 (By Farrar), Congratulating Melissa Marino of Houston on her graduation from Texas School for the Deaf.

To Rules & Resolutions.

HR 1169 (By Garcia), In memory of Estela Hernandez Palomares of San Antonio.

To Rules & Resolutions.

HR 1170 (By Krusee), Commending John R. Carter for 20 years of service as judge of the 277th State District Court.

To Rules & Resolutions.

HR 1171 (By Krusee), Honoring the 2000 Jarrell High School football team for its outstanding season.

To Rules & Resolutions.

HR 1172 (By Krusee), Honoring the 2000 Jarrell High School girls volleyball team for its outstanding season.

To Rules & Resolutions.

HR 1173 (By Krusee), Honoring the Jarrell High School Cougars boys basketball team on its stellar 2000 season.

To Rules & Resolutions.

HR 1176 (By Shields), Honoring Winston Churchill High School senior Nicole Melton for winning the Class 5A individual girls state golf title.

To Rules & Resolutions.

HR 1177 (By Kolkhorst), Honoring Representative Fred Brown for his work with the Brazos Valley United Way.

To Rules & Resolutions.

HR 1178 (By Hardcastle), Honoring Trent McKnight of Throckmorton on his tenure as president of the FFA.

To Rules & Resolutions.

HR 1179 (By Chavez), Honoring El Paso for making access and retrieval of library materials easier for area citizens.

To Rules & Resolutions.

HR 1180 (By Delisi), Honoring the memory of James H. Russell of Temple.

To Rules & Resolutions.

HR 1182 (By Carter), Honoring John South on his retirement from the Texas Agricultural Extension Service.

To Rules & Resolutions.

HR 1183 (By Ellis), Honoring Lillian Condra on her retirement.

To Rules & Resolutions.

HR 1185 (By Grusendorf), Honoring Beatrice Smith Parker of Chevy Chase, Maryland, on her visit to the Capitol.

To Rules & Resolutions.

HR 1186 (By Swinford), Honoring Bea Mann for her dedication to the State of Texas and the state legislature.

To Rules & Resolutions.

HR 1187 (By Williams, G. Lewis, S. Turner, Keffer, and Kolkhorst), Honoring the citizens of Grimes County for their peaceful resolution of a racial issue. resolution of a racial issue.

To Rules & Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 62

HB 59, HB 156, HB 323, HB 476, HB 546, HB 776, HB 1368, HB 1566, HB 1649, HB 2087, HB 2098, HB 2586, HB 2839, HB 2950, HB 3038, HB 3067, HB 3231, HCR 92, HCR 137, HCR 293

Senate List No. 32

SB 414, SB 789, SCR 28

Senate List No. 33

SCR 65

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, May 22, 2001

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

LOCAL AND UNCONTESTED CALENDAR

HB 15 Corte SPONSOR: Madla
Relating to license plates for persons with disabilities and disabled veterans.

HB 31 McClendon SPONSOR: Madla
Relating to the punishment for the offense of burglary of a vehicle.

HB 66 Pitts SPONSOR: Brown, J. E. "Buster"
Relating to the regulation of certain water well drillers.
(AMENDED)

HB 71 Pitts SPONSOR: Brown, J. E. "Buster"
Relating to the regulation of certain water well pump installers.
(AMENDED)

HB 78 Gallego SPONSOR: Madla
Relating to the assignment of the judge of the 394th District Court as a visiting judge.

HB 83 Gallego SPONSOR: Madla
Relating to property, facilities, and equipment of the Big Bend Regional Hospital District.

HB 99 Maxey SPONSOR: Van de Putte
Relating to the use of certain electronic media by the Texas State Board of Pharmacy and persons or entities regulated by that board.

HB 119 West, George "Buddy" SPONSOR: Duncan
Relating to the period for filing a petition for a place on the ballot for the board of directors of the Ector County Hospital District.

HB 149 Wohlgemuth SPONSOR: Carona
Relating to persons eligible to receive a license plate honoring peace officers killed in the line of duty.

HB 164 Olivo SPONSOR: Armbrister
Relating to the authority of counties to regulate outdoor lighting near major astronomical observatories.

HB 170 Christian SPONSOR: Staples
Relating to the Nacogdoches County Hospital District.

HB 182 Turner, Bob SPONSOR: Madla
Relating to the tax rate of the Sutton County Hospital District.

HB 195 Najera SPONSOR: Duncan
Relating to the analysis of information identifying persons committing or suspected of committing certain property offenses against elderly individuals.

HB 196 Reyna, Arthur SPONSOR: Sibley
Relating to the adoption of standards for the practice of air conditioning and refrigeration contracting.
(COMMITTEE SUBSTITUTE)

HB 218 Wise SPONSOR: Van de Putte
Relating to the membership of a local workforce development board.

HB 247 Turner, Bob SPONSOR: Wentworth
Relating to the use by a person of stored water for wildlife management on certain property of the person.
(AMENDED)

HB 249 Pitts SPONSOR: Shapiro
Relating to reports on the extent to which the computer technology and electronically stored information of a state agency or a state contractor are vulnerable to unauthorized access or harm.

HB 280 Christian SPONSOR: Whitmire
Relating to the efficient use of police service animals.

HB 298 West, George "Buddy" SPONSOR: Duncan
Relating to the appointment of an assistant administrator for the Ector County Hospital District.

HB 400 Giddings SPONSOR: Van de Putte
Relating to assisting prospective students in enrolling in institutions of higher education.
(COMMITTEE SUBSTITUTE)

HB 407 Denny SPONSOR: Shapiro
Relating to the reporting of certain political contributions made in connection with a statewide office.

HB 412 Zbranek SPONSOR: Bernsen
Relating to an extension to file a request to maintain service area certification by a municipally owned utility.

HB 434 Heflin SPONSOR: Whitmire
Relating to the procedures for handling certain defendants acquitted of an offense by reason of insanity.

HB 451 Talton SPONSOR: Brown, J. E. "Buster"
Relating to an employee of a personal bond office administering oaths to or taking an acknowledgment or proof of a written instrument from personal bond applicants.

HB 456 Maxey SPONSOR: Moncrief
Relating to exemption from nursing license requirements for certain services provided to persons with disabilities.

HB 468 Solomons SPONSOR: Shapiro
Relating to the transportation of and certain ad valorem tax liens on manufactured homes; providing a penalty.

HB 485 Craddick SPONSOR: Duncan
Relating to the composition of the 83rd Judicial District and to the election of the district attorney for that district.

HB 489 Pickett SPONSOR: Lucio
Relating to the definition of a junked vehicle under the public nuisance law.

HB 497 Chisum SPONSOR: Bivins
Relating to the application of the professional prosecutors law to the district attorney for the 31st Judicial District.

HB 539 Thompson SPONSOR: West, Royce
Relating to arts, entertainment, advertisement, and sports contracts entered into by minors.

HB 567 Deshotel SPONSOR: Van de Putte
Relating to computation of the maximum and minimum benefit amounts for total unemployment under the unemployment compensation system.

HB 596 Goodman SPONSOR: West, Royce
Relating to suits affecting the parent-child relationship and the modification of an order rendered in a suit; providing penalties.

HB 598 Goodman SPONSOR: Harris
Relating to fees imposed on defendants placed on community supervision.
(AMENDED)

HB 612 Maxey SPONSOR: Duncan
Relating to the preparation and submission of certain reports by municipalities and the comptroller of public accounts under the Tax Increment Financing Act.

HB 627 Hilderbran SPONSOR: Fraser
Relating to sale of wine by certain holders of a winery permit.

HB 628 Naishtat SPONSOR: Moncrief
Relating to authorizing a person other than a corporate fiduciary to serve as trustee of certain trusts.

HB 694 Yarbrough SPONSOR: Van de Putte
Relating to eligibility for unemployment compensation benefits of certain sheltered workshop employees who are blind.

HB 715 Oliveira SPONSOR: Lucio
Relating to the composition of the 404th Judicial District.

HB 779 Uher SPONSOR: Armbrister
Relating to the establishment of a line of vegetation along the Gulf of Mexico in certain areas of public beach.

HB 811 McReynolds SPONSOR: Shapiro
Relating to the issuance of Special Olympics Texas license plates.

HB 821 Giddings SPONSOR: Bivins
Relating to cardiopulmonary resuscitation instruction for public school students.
(COMMITTEE SUBSTITUTE)

HB 834 Flores SPONSOR: Carona
Relating to sale of surplus or salvage property.
(COMMITTEE SUBSTITUTE)

HB 842 Keel SPONSOR: Duncan
Relating to the authority of less than the whole number of a jury to render a verdict in a felony case when a juror dies or becomes disabled.

HB 892 Swinford SPONSOR: Duncan
Relating to sale and promotion of certain agricultural products produced by wineries.

HB 927 Hill SPONSOR: Bivins
Relating to certain required reports by disability retirees in the Teacher Retirement System of Texas.

HB 931 Solis, Jim SPONSOR: Shapleigh
Relating to a coordinated economic development plan for the state.

HB 936 Solis, Jim SPONSOR: Van de Putte
Relating to the application of certain laws to local workforce development boards and to the application of certain conflict of interest requirements to the members of those boards.
(AMENDED)

HB 940 Haggerty SPONSOR: West, Royce
Relating to the creation of a criminal offense for impersonating a security officer regulated by the Texas Commission on Private Security.

HB 949 Averitt SPONSOR: Fraser
Relating to premium rates for certain small employer health benefit plans.

HB 964 Dunnam SPONSOR: Van de Putte
Relating to the release of certain confidential information of a patient by the patient's physician.

HB 1022 McCall SPONSOR: Sibley
Relating to the recording of expenditures of revenue from the municipal hotel occupancy tax.
(COMMITTEE SUBSTITUTE)

HB 1056 Gallego SPONSOR: Shapleigh
Relating to the composition of the general investigating committee of the house of representatives and to certain records of a legislative general investigating committee.

HB 1080 McReynolds SPONSOR: Bivins
Relating to insurance requirements to limit the liability of an owner, lessee, or occupant of agricultural land for damages arising from a certified prescribed burn on that land.

HB 1109 Goolsby SPONSOR: Carona
Relating to unemployment compensation contributions by certain employers of domestic workers.

HB 1117 Goodman SPONSOR: Harris
Relating to petition requirements for an application for a place on the general primary election ballot for certain judicial candidates.
(COMMITTEE SUBSTITUTE)

HB 1124 Turner, Bob SPONSOR: Moncrief
Relating to establishing a community healthcare awareness and mentoring program for students.

HB 1128 Rangel SPONSOR: Lucio
Relating to the registration period for a truck-tractor or commercial motor vehicle transporting seasonal agricultural products.

HB 1137 Menendez SPONSOR: Van de Putte
Relating to court-ordered social studies in certain suits affecting the parent-child relationship.

HB 1161 Eiland SPONSOR: Moncrief
Relating to the administration of the Business Enterprises Program trust fund.
(COMMITTEE SUBSTITUTE)

HB 1181 Capelo SPONSOR: Whitmire
Relating to the punishment for the offense of obstruction or retaliation.

HB 1188 Telford SPONSOR: Van de Putte
Relating to the rights of a public school teacher who is assaulted during the performance of the teacher's regular duties.
(COMMITTEE SUBSTITUTE)

- HB 1194** Brimer SPONSOR: Harris
Relating to the eligibility of certain property owned or leased by a local official for ad valorem tax abatement or tax increment financing.
- HB 1214** Pitts SPONSOR: Brown, J. E. "Buster"
Relating to the regulation of certain occupations by, and other powers and duties of, the Texas Department of Licensing and Regulation.
(AMENDED)
- HB 1276** Crownover, Myra SPONSOR: Fraser
Relating to use of a student's legal surname in a public school.
- HB 1309** Villarreal, Mike SPONSOR: Shapleigh
Relating to requirements applicable to child-care workers who receive scholarships funded by the federal Child Care Development Fund.
- HB 1348** Villarreal, Mike SPONSOR: Shapleigh
Relating to a grant program for local workforce development boards to design and implement child-care demonstration projects.
- HB 1363** Goodman SPONSOR: Harris
Relating to the mediation of certain disputes by collaborative law procedures.
- HB 1365** Goodman SPONSOR: Harris
Relating to the establishment, modification, and enforcement of child support.
(COMMITTEE SUBSTITUTE)
- HB 1388** Moreno, Joe E. SPONSOR: Gallegos
Relating to the civil service status of fire fighters in certain cities.
- HB 1393** Hodge SPONSOR: Cain
Relating to the procedure for a refund of an overpayment or erroneous payment of ad valorem taxes.
- HB 1394** Berman SPONSOR: Staples
Relating to the creation of municipal courts of record in Bullard.
- HB 1426** Shields SPONSOR: Lindsay
Relating to the repeal of an obsolete provision authorizing a temporary reduction of the royalty rate on gas produced from certain state land.
- HB 1428** Longoria SPONSOR: Barrientos
Relating to the reestablishment of service credit in a public retirement system participating in the proportionate retirement program.
- HB 1430** Danburg SPONSOR: Gallegos
Relating to providing for the automatic expiration of the rules of an abolished state agency and for the repeal of invalid rules.
- HB 1440** Averitt SPONSOR: Sibley
Relating to the eligibility of certain children for certain health benefit coverage.
- HB 1447** Oliveira SPONSOR: Van de Putte
Relating to a franchise tax credit for certain activities in defense economic readjustment zones.

HB 1468 Pitts SPONSOR: Cain
Relating to the calculation of ad valorem tax rates for certain taxing units.

HB 1592 Kitchen SPONSOR: Van de Putte
Relating to a project of an industrial development corporation.

HB 1599 Danburg SPONSOR: Shapiro
Relating to certain procedures for counting and recounting voting system ballots.

HB 1610 Averitt SPONSOR: Fraser
Relating to data on mandated health benefits and mandated offers of coverage that must be collected and reported by health benefit plan issuers.

HB 1612 Goolsby SPONSOR: Carona
Relating to permitted forms of payment for permit application fees.

HB 1614 Wise SPONSOR: Cain
Relating to requirements for the issuance of a food and beverage certificate to certain alcoholic beverage permit or license holders.

HB 1645 Delisi SPONSOR: Nelson
Relating to the use of certain transferred freshmen-level credit courses to satisfy the requirements of the Texas Academic Skills Program.
(COMMITTEE SUBSTITUTE)

HB 1659 Ritter SPONSOR: Staples
Relating to the duty of a county to notify the Texas Department of Criminal Justice regarding certain proceedings in cases of defendants or inmates returned to the county on a bench warrant.
(COMMITTEE SUBSTITUTE)

HB 1669 Turner, Bob SPONSOR: Cain
Relating to the duties of an operator of an underground facility and of an excavator regarding marking of the location of an underground facility.

HB 1678 Bosse SPONSOR: Cain
Relating to nonrepairable and salvage motor vehicles.

HB 1755 Gutierrez SPONSOR: Staples
Relating to action by certain occupational regulatory agencies against certain recipients of student financial assistance.

HB 1758 Turner, Sylvester SPONSOR: Moncrief
Relating to access for females under 18 years of age to facilities, services, and treatment available through health and human services and juvenile corrections programs.

HB 1762 Green SPONSOR: Armbrister
Relating to the issuance of certain driver's licenses and identification certificates by the Department of Public Safety and the provision of driver record information by the department and to fees and charges collected by the department.

HB 1766 Turner, Bob SPONSOR: Ellis, Rodney
Relating to administration of oaths in Texas.

HB 1793 Wise SPONSOR: Cain
Relating to the application of certain alcoholic beverage regulations to the holder of a food and beverage certificate.

HB 1794 Wise SPONSOR: Cain
Relating to private club alcoholic beverage accounts.
(COMMITTEE SUBSTITUTE)

HB 1831 Pickett SPONSOR: Harris
Relating to the general power of the Texas Department of Transportation to contract.
(COMMITTEE SUBSTITUTE)

HB 1863 Kuempel SPONSOR: Wentworth
Relating to the registration fee for dogs required by certain counties.

HB 1872 Solis, Jim SPONSOR: Carona
Relating to local employment impact statements required before a state agency may adopt a rule.

HB 1915 Capelo SPONSOR: Lucio
Relating to an exemption from the requirement to have a fishing license for certain mentally retarded persons.

HB 1940 Bonnen SPONSOR: Cain
Relating to the proration of the taxes imposed on a residence homestead in a year in which a residence homestead exemption for an elderly person terminates.

HB 1955 Zbranek SPONSOR: Staples
Relating to the discharge from jail of a misdemeanant who is jailed to satisfy fines and costs.

HB 1985 Solis, Jim SPONSOR: Truan
Relating to the regulation of proprietary schools.

HB 1996 Chavez SPONSOR: Shapleigh
Relating to the designation of a segment of Loop 375 in El Paso County as the Cesar Chavez Border Highway.

HB 2004 Maxey SPONSOR: Carona
Relating to the medication a patient receives after being furloughed or discharged from inpatient mental health services.
(COMMITTEE SUBSTITUTE)

HB 2033 Pitts SPONSOR: Lucio
Relating to requiring notice to purchasers of real property located in a certificated service area of a utility service provider regarding the cost or availability of water or sewer service.

HB 2040 Hawley SPONSOR: Zaffirini
Relating to defense base development authorities created by certain municipalities.

HB 2045 Williams SPONSOR: Bernsen
Relating to the disposition of impact fees by municipal utility districts.

HB 2058 Moreno, Joe E. SPONSOR: Shapiro
Relating to the inspection of a commercial motor carrier's premises by municipal police officers.

HB 2076 Flores SPONSOR: Lucio
Relating to the exemption of travel trailers from ad valorem taxation.

HB 2102 Eiland SPONSOR: Sibley
Relating to the determination of premium rates for certain lines of insurance.
(AMENDED)

HB 2122 Tillery SPONSOR: Armbrister
Relating to the administration of a statewide retirement system for volunteer firefighters and other emergency services personnel.

HB 2124 Noriega SPONSOR: Lindsay
Relating to the consolidated registration of certain fleets of motor vehicles.

HB 2125 Hawley SPONSOR: Truan
Relating to public school admission of military personnel and dependents under reciprocity agreements between states.

HB 2152 Averitt SPONSOR: Jackson
Relating to the validity of certain devises or bequests.

HB 2153 Averitt SPONSOR: Sibley
Relating to the directors and authority of the Texas Public Finance Authority.

HB 2154 Averitt SPONSOR: Shapiro
Relating to charges for default on a motor vehicle retail installment contract.

HB 2155 Averitt SPONSOR: Sibley
Relating to the operation of state banks, state trust companies, and certain financial holding companies in the financial services industry.

HB 2167 Keel SPONSOR: Barrientos
Relating to the jurisdiction of the County Court at Law Number 4 of Travis County.

HB 2168 Uher SPONSOR: Harris
Relating to granting a property owner in a partition proceeding an access easement in certain circumstances.

HB 2178 Salinas SPONSOR: Moncrief
Relating to the expunction of information about certain chemical dependency diagnoses in certain medical records.

HB 2184 Smith SPONSOR: Harris
Relating to the disposition of certain weapons seized as evidence in a criminal case.

HB 2186 Davis, Yvonne SPONSOR: Carona
Relating to charges assessed by a landlord under a commercial lease.

HB 2226 Davis, John SPONSOR: Jackson
Relating to the certification by a chief appraiser of certain taxable properties not included in the initial appraisal roll for a taxing unit.

HB 2230 McReynolds SPONSOR: Ogden
Relating to the reporting and investigation of motor vehicle accidents.

HB 2238 Moreno, Joe E. SPONSOR: Gallegos
Relating to the closing of streets or alleys by institutions of higher education in certain counties.

HB 2243 Bosse SPONSOR: Gallegos
Relating to the Vehicle Storage Facility Act.
(AMENDED)

HB 2247 Ellis, Dan SPONSOR: Staples
Relating to establishing an exit interview process for employees of the institutional division of the Texas Department of Criminal Justice.

HB 2249 Goodman SPONSOR: Harris
Relating to certain suits affecting the parent-child relationship.

HB 2265 Villarreal, Mike SPONSOR: Shapleigh
Relating to the funding of child care subsidies by the Texas Workforce Commission.

HB 2270 Bailey SPONSOR: Whitmire
Relating to the jurisdiction of municipal courts of record over health and safety and nuisance abatement ordinances.

HB 2273 Davis, Yvonne SPONSOR: Cain
Relating to the hours worked during a week by police officers in certain municipalities.

HB 2279 Naishtat SPONSOR: Barrientos
Relating to the exemption from the payment of higher education tuition and fees for certain recipients of Temporary Assistance for Needy Families benefits.

HB 2287 Edwards SPONSOR: Moncrief
Relating to the authority of a hospital to share with certain attending physicians reimbursements for services provided to patients under the medical assistance program.

HB 2313 Bosse SPONSOR: Gallegos
Relating to the disposing of abandoned motor vehicles.
(AMENDED)

HB 2327 Solis, Jim SPONSOR: Van de Putte
Relating to the operation, funding, and assessment of local workforce development boards.

HB 2331 Uresti SPONSOR: Van de Putte
Relating to punishments for certain violations of alcoholic beverage law relating to minors.

HB 2334 Zbranek SPONSOR: Staples
Relating to the designation of a portion of U.S. Highway 69 as the Big Thicket National Preserve Parkway.

HB 2347 Raymond SPONSOR: Zaffirini
Relating to a court fee to be used for courthouse security in Webb County.

HB 2391 Turner, Bob SPONSOR: Cain
Relating to fees, penalties, and training courses relating to notification of underground excavation.

HB 2400 Geren SPONSOR: Moncrief
Relating to liability of sponsors of and participants in certain activities involving animals.

HB 2403 Lewis, Ron SPONSOR: Brown, J. E. "Buster"
Relating to reporting requirements regarding certain clothes-washing machines.
(AMENDED)

HB 2404 Lewis, Ron SPONSOR: Brown, J. E. "Buster"
Relating to the submetering and allocation of water service in apartment houses, manufactured home rental communities, condominiums, and other multiple use facilities.
(AMENDED)

HB 2405 Gray SPONSOR: Bernsen
Relating to regulating mass gatherings on public beaches in coastal counties; providing a penalty.

HB 2408 Maxey SPONSOR: Shapleigh
Relating to a study by the Health Professions Council relating to the complaint procedures of certain health care regulatory entities.

HB 2413 Ritter SPONSOR: Zaffirini
Relating to the tax on cigarettes, cigars, and other tobacco products.

HB 2415 Giddings SPONSOR: Ellis, Rodney
Relating to an interim study of the marketplace in the state for life insurance issued with a small face amount.

HB 2419 Coleman SPONSOR: Moncrief
Relating to charity care requirements for certain hospitals.

HB 2423 Hawley SPONSOR: Madla
Relating to the designation of a hospital as a rural hospital.

HB 2475 Kolkhorst SPONSOR: Ogden
Relating to eligibility for a special license issued by the State Board of Veterinary Medical Examiners.

HB 2482 Kitchen SPONSOR: Zaffirini
Relating to stabilization of long-term care insurance premium rates.

HB 2488 Chisum SPONSOR: Haywood
Relating to the powers and duties of the Donley County Hospital District.

HB 2492 Bosse SPONSOR: Harris
Relating to the state employee incentive and productivity program.

HB 2557 Jones, Elizabeth SPONSOR: Wentworth
Relating to the payment of certain judgments.
(COMMITTEE SUBSTITUTE)

HB 2558 Maxey SPONSOR: Shapleigh
Relating to the amount of the fees established by the Texas State Board of Medical Examiners.

HB 2559 Jones, Elizabeth SPONSOR: Shapiro
Relating to the jurisdiction of a municipal court.

HB 2571 McReynolds SPONSOR: Staples
Relating to the creation, administration, powers, duties, operation, and financing of the Angelina County Water Control and Improvement District No. 4; authorizing the imposition of taxes and the issuance of bonds and granting the power of eminent domain; providing a civil penalty.
(AMENDED)

HB 2579 Lewis, Ron SPONSOR: Bernsen
Relating to annexation and incorporation procedures relating to certain unincorporated communities in certain counties.

HB 2587 Counts SPONSOR: Haywood
Relating to zoning in Kent County around Lake Alan Henry.

HB 2593 Chavez SPONSOR: Shapleigh
Relating to the establishment of a pilot program by the Texas Workforce Commission for technology training for certain persons.

HB 2638 George SPONSOR: Shapiro
Relating to certain fees for collecting, disbursing, or monitoring spousal maintenance or child support payments in Dallas County.

HB 2650 Capelo SPONSOR: Madla
Relating to requiring hepatitis C training for registered nurses.

HB 2658 Counts SPONSOR: Haywood
Relating to the authority of Knox County Hospital District to enter into a loan agreement.

HB 2673 Villarreal, Mike SPONSOR: Shapleigh
Relating to the collection and assessment of certain information by the Texas Workforce Commission.

HB 2682 Allen SPONSOR: West, Royce
Relating to the authority of certain municipalities to dedicate tax revenue from certain reinvestment zones.

HB 2706 Reyna, Arthur SPONSOR: Madla
Relating to a legislative leave time bank for certain peace officers and firefighters.

HB 2718 Lewis, Ron SPONSOR: Armbrister
Relating to the recovery of certain relocation costs by a gas utility.

HB 2719 Noriega SPONSOR: Brown, J. E. "Buster"
Relating to the use of obsolete bridges, tunnels, and causeways to create artificial reefs.

HB 2728 Crownover, Myra SPONSOR: Fraser
Relating to regulation of the issuance of a security under a certain compensation plan established by the issuer of the security or a participating subsidiary of the issuer.

HB 2729 Gray SPONSOR: Moncrief
Relating to allowing the donation of certain unused prescription drugs to charitable medical clinics.
(COMMITTEE SUBSTITUTE)

HB 2731 Gray SPONSOR: Bernsen
Relating to a proceeding to declare heirship.

HB 2735 Thompson SPONSOR: Bernsen
Relating to the certification and licensing of court interpreters; providing penalties.

HB 2744 Carter SPONSOR: Madla
Relating to emergency services and rural fire prevention districts.

HB 2751 Jones, Elizabeth SPONSOR: Van de Putte
Relating to the amount of compensation and allowances for county auditors.

HB 2756 Ritter SPONSOR: Bernsen
Relating to the recording of expenditures of revenue from the county hotel occupancy tax.

HB 2758 Ritter SPONSOR: Bernsen
Relating to the authority of certain counties to impose a hotel occupancy tax and to the rate of the tax.

HB 2760 Brown, Betty SPONSOR: Madla
Relating to the resolution of disputes arising under interlocal cooperation contracts.

HB 2761 Brown, Betty SPONSOR: Cain
Relating to the conversion of the Kaufman County Municipal Utility District No. 1 to Kaufman County Levee Improvement District No. 4, operating as a levee improvement district.

HB 2763 Solis, Jim SPONSOR: Jackson
Relating to federal matching funds for certain child care services funded by a local workforce development board.

HB 2767 Delisi SPONSOR: Zaffirini
Relating to the notice regarding sales of cigarettes and tobacco products given by a retailer to its employees.

HB 2769 Solis, Jim SPONSOR: Jackson
Relating to the scope of child care services funded by a local workforce development board.

HB 2780 Villarreal, Mike SPONSOR: Madla
Relating to the effect of a recount on qualifying for an office involved in the recount.

HB 2782 Villarreal, Mike SPONSOR: Madla

Relating to the authority of the commissioners court of a county to impose an application fee to be paid in connection with an application or request for county ad valorem tax abatement.

HB 2784 Carter SPONSOR: Staples

Relating to recordkeeping pertaining to incidents involving persons licensed to carry a handgun.

HB 2787 Geren SPONSOR: Brown, J. E. "Buster"

Relating to requiring students of institutions of higher education to obtain a vehicle emissions inspection for certain vehicles and to notifying certain students of state vehicle registration and inspection requirements.

(AMENDED)

HB 2788 Solomons SPONSOR: Duncan

Relating to the transfer of certain cases from a district court of a judicial district to a newly created district court of that judicial district.

HB 2803 Uresti SPONSOR: Van de Putte

Relating to refund or retention by a landlord of a security deposit under a commercial lease.

HB 2806 Kitchen SPONSOR: Barrientos

Relating to disconnection of natural gas service.

HB 2808 Chavez SPONSOR: Shapleigh

Relating to the creation and powers of a North American Free Trade Agreement impact zone.

HB 2811 Wolens SPONSOR: Cain

Relating to a nonsubstantive revision of statutes relating to the Texas Department of Insurance, the business of insurance, and certain related businesses, including conforming amendments, repeals, and penalties.

HB 2812 Wolens SPONSOR: Cain

Relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 76th Legislature to other Acts of that legislature.

HB 2813 Wolens SPONSOR: Cain

Relating to the adoption of a nonsubstantive revision of statutes relating to the licensing and regulation of certain professions and business practices, including conforming amendments, repeals, and penalties.

HB 2818 Counts SPONSOR: Shapleigh

Relating to the maximum inmate population of facilities operated by municipalities.

HB 2830 Smithee SPONSOR: Sibley

Relating to unauthorized insurance.

HB 2831 Smithee SPONSOR: Sibley
Relating to notification to certain health care providers of the factors considered by a managed care entity in determining the amount of reimbursement for an out-of-network provider.

HB 2832 Smithee SPONSOR: Bivins
Relating to requiring tax collectors to notify taxpayers of certain overpayments of ad valorem taxes and to issue refunds of certain duplicate payments of ad valorem taxes.

HB 2833 Grusendorf SPONSOR: Jackson
Relating to the application of the sales tax to services provided in connection with certain foreclosure sales.

HB 2844 Lewis, Glenn SPONSOR: Moncrief
Relating to authorizing the Texas Board of Health to exempt certain projects from rules relating to asbestos abatement.

HB 2856 Martinez Fischer SPONSOR: Armbrister
Relating to certain criminal offenses involving bail bond activity; increasing a penalty.

HB 2859 Junell SPONSOR: Fraser
Relating to authorizing the Texas Board of Criminal Justice to grant a conservation easement covering certain state property.

HB 2863 Farabee SPONSOR: Madla
Relating to the threshold contract amount at which a county and certain municipalities are required to engage in a competitive purchasing procedure for certain purchases.

HB 2878 Goolsby SPONSOR: Carona
Relating to requirements for a private club registration permit under the Alcoholic Beverage Code.

HB 2913 Bonnen SPONSOR: Brown, J. E. "Buster"
Relating to the compensation of commissioners and the tax rate of the Brazoria County Conservation and Reclamation District Number Three.

HB 2921 Jones, Jesse SPONSOR: Whitmire
Relating to requiring verification of information regarding potentially ineligible voters produced for a county by a private business entity.

HB 2957 King, Phil SPONSOR: Sibley
Relating to authorized investments for certain public money.

HB 2976 Dukes SPONSOR: Fraser
Relating to the funding of the State Office of Risk Management.

HB 3000 Uresti SPONSOR: Madla
Relating to the authority of a criminal law magistrate in Bexar County to rule on an issue of law or fact.

HB 3001 Uresti SPONSOR: Madla
Relating to effective dates for tax abatements.

HB 3023 Chisum SPONSOR: Bivins
Relating to water quality permit applications for certain facilities located near a sole-source drinking water supply.

HB 3043 Luna, Vilma SPONSOR: Truan
Relating to prevention and detection of fraud in hospital district funded indigent health care programs.

HB 3095 Counts SPONSOR: Haywood
Relating to the governing body and powers of the Salt Fork Water Quality District.

HB 3111 Zbranek SPONSOR: Bernsen
Relating to occupational licenses and registrations issued by the Texas Natural Resource Conservation Commission.

HB 3121 Ritter SPONSOR: Armbrister
Relating to the exemption from ad valorem taxation for property used to control pollution.

HB 3123 Alexander SPONSOR: Brown, J. E. "Buster"
Relating to the standards for determining whether land qualifies for appraisal for ad valorem tax purposes as open-space land based on its use for wildlife management.

HB 3140 Swinford SPONSOR: Haywood
Relating to eligibility for certain franchise tax credits.

HB 3144 Hartnett SPONSOR: Bernsen
Relating to incapacitated persons, wards, and former wards.

HB 3147 Smith SPONSOR: Van de Putte
Relating to allowing certain retirees of the Teacher Retirement System of Texas to be employed as principals without losing retirement benefits.

HB 3159 Bonnen SPONSOR: Brown, J. E. "Buster"
Relating to the compensation and per diem of the commissioners of Brazoria Drainage District Number 4.

HB 3161 Bonnen SPONSOR: Brown, J. E. "Buster"
Relating to the expiration of certain subdivision plats.

HB 3172 Thompson SPONSOR: Van de Putte
Relating to the authority of a county to establish public improvement districts. (AMENDED)

HB 3174 Solis, Jim SPONSOR: Truan
Relating to the operation of the Court of Appeals for the Thirteenth Court of Appeals District and the creation of an appellate judicial system for the district.

HB 3178 Solis, Jim SPONSOR: Shapleigh
Relating to the requirement that certain persons associated with development corporations complete a training seminar on the operation and administration of development corporations; providing an administrative penalty.

HB 3184 Danburg SPONSOR: Lindsay
Relating to the contents of an application for an exemption from ad valorem taxation.

HB 3185 Turner, Bob SPONSOR: Whitmire
Relating to certain personnel policies of the Texas Department of Criminal Justice.

HB 3191 Puente SPONSOR: Van de Putte
Relating to the consent of certain municipalities to the inclusion of their extraterritorial jurisdiction in emergency services districts.

HB 3192 Puente SPONSOR: Wentworth
Relating to associate judges appointed by the district courts of Bexar County.

HB 3194 Howard SPONSOR: Brown, J. E. "Buster"
Relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend County Levee Improvement District Number 16 and to the authorization of bonds and the levy of taxes; providing civil penalties.
(COMMITTEE SUBSTITUTE)

HB 3203 Jones, Jesse SPONSOR: West, Royce
Relating to updating address information on a list used to reconstitute the jury wheel.

HB 3229 Craddick SPONSOR: Bivins
Relating to a declaration for write-in candidacy for director of the Midland County Hospital District.

HB 3254 Giddings SPONSOR: Ellis, Rodney
Relating to limitations on certain disciplinary actions by the commissioner of insurance or the Texas Department of Insurance.

HB 3285 Farrar SPONSOR: Lindsay
Relating to the issuance and refunding of anticipation notes and the financing of certain contracts by certain political subdivisions.

HB 3296 Goodman SPONSOR: Harris
Relating to the compensation of certain retired judges while assigned as visiting judges.

HB 3298 Bonnen SPONSOR: Brown, J. E. "Buster"
Relating to the contracting authority of and authorized uses for corporate revenue by certain industrial development corporations.

HB 3315 Ramsay SPONSOR: Bernsen
Relating to county regulation of outdoor burning.
(COMMITTEE SUBSTITUTE)

HB 3333 Woolley SPONSOR: Whitmire
Relating to permissible investments by deferred compensation plans for employees of political subdivisions.

HB 3349 Ehrhardt SPONSOR: Madla
Relating to providing a means by which abandoned property can be conveyed with clear title to be used for housing for low-income individuals or families.

HB 3351 Keffer SPONSOR: Haywood
Relating to the regulation of immediate precursors and certain other chemicals used in the illicit manufacture of a controlled substance; providing penalties.

HB 3359 Corte SPONSOR: Madla
Relating to the designation of a part of U.S. Highway 90 in Bexar County as the 90th Infantry Division Memorial Highway.

HB 3364 Menendez SPONSOR: Van de Putte
Relating to deferring or abating a suit to collect ad valorem taxes owed by certain disabled individuals.

HB 3378 Deshotel SPONSOR: Bernsen
Relating to composition of the Texas Department of Mental Health and Mental Retardation.

HB 3387 Dunnam SPONSOR: Sibley
Relating to the disposition of public property in a defense economic readjustment zone.

HB 3393 Oliveira SPONSOR: Van de Putte
Relating to the adoption and use of certain consumer information materials in Spanish regarding personal automobile insurance coverage.

HB 3458 Brimer SPONSOR: Duncan
Relating to the operation of the Texas Workers' Compensation Insurance Fund as a domestic mutual insurance company and to the continuation of that entity as the Texas Mutual Insurance Company.
(AMENDED)

HB 3463 Smith SPONSOR: Bivins
Relating to a school district's release of certain records.

HB 3465 Maxey SPONSOR: Shapleigh
Relating to certain fees prescribed by the Texas Board of Health for the regulation of opticians.

HB 3491 Hinojosa SPONSOR: Moncrief
Relating to the training of law enforcement officers and recruits on dual arrests and the determination of predominant aggressors in family violence situations.

HB 3504 Allen SPONSOR: Armbrister
Relating to sanctions imposed on certain persons following modification of parole or release on mandatory supervision.

HB 3526 Hochberg SPONSOR: Cain
Relating to the use of estimated property values in preparing the public notice provided by school districts before adopting a proposed budget and tax rate.

HB 3552 Raymond SPONSOR: Madla
Relating to the regulation of manufactured housing; providing a penalty.

HB 3600 Capelo SPONSOR: Cain
Relating to the confidentiality of records regarding the compliance monitoring of physicians by the Texas State Board of Medical Examiners.
(COMMITTEE SUBSTITUTE)

HB 3603 Capelo SPONSOR: Bernsen
Relating to the paid leave and the return to duty for certain municipal peace officers and firefighters in certain circumstances.

HB 3627 Hope SPONSOR: Bernsen
Relating to the creation of the County Court at Law No. 4 of Montgomery County and to the jurisdiction, operation, and administration of the county courts at law in Montgomery County.

HB 3628 Green SPONSOR: Armbrister
Relating to the validation of the creation and to the administration, powers, duties, operation, and financing of the Hays County Water Control and Improvement District No. 1 and the provision of certain services in the district.

HB 3629 Green SPONSOR: Armbrister
Relating to the validation of the creation and to the administration, powers, duties, operation, and financing of the Hays County Water Control and Improvement District No. 2 and the provision of certain services in the district.

HB 3630 Thompson SPONSOR: Lucio
Relating to the Texas Health Insurance Risk Pool.

HB 3632 Farabee SPONSOR: Haywood
Relating to the jurisdiction of a county court at law in Wichita County.

HB 3633 Hope SPONSOR: Bernsen
Relating to the operation of the East Montgomery County Improvement District.

HB 3635 Cook SPONSOR: Armbrister
Relating to the creation, administration, powers, duties, operation, and financing of the Wharton County Drainage District.

HB 3639 Danburg SPONSOR: Brown, J. E. "Buster"
Relating to the expansion of the boundaries and the number of members of the board of the Upper Kirby Management District.
(AMENDED)

HB 3643 Seaman SPONSOR: Armbrister
Relating to the creation of the County Court at Law of Aransas County and to the jurisdiction of the County Court of Aransas County

HB 3646 Kitchen SPONSOR: Barrientos
Relating to the jurisdiction of and procedure in a county court at law in Travis County.

HB 3647 Glaze SPONSOR: Cain
Relating to the creation of the Smith County Economic Development District; providing the authority to impose a tax and issue bonds.
(AMENDED)

HB 3653 Ritter SPONSOR: Bernsen
Relating to the creation, administration, powers, duties, operation, and financing of the Jefferson County Waterway and Navigation District and the merger of the Jefferson County Navigation District with that district.

HB 3663 Thompson SPONSOR: Brown, J. E. "Buster"
Relating to the jurisdiction of a county criminal court at law in Harris County.

HB 3664 Thompson SPONSOR: Whitmire
Relating to the authority of criminal law hearing officers in certain counties to enforce certain judgments and orders.

HB 3670 Jones, Delwin SPONSOR: Duncan
Relating to the election and qualifications of directors of the Lubbock County Water Control and Improvement District No. 1.

HB 3671 Denny SPONSOR: Nelson
Relating to the creation of municipal courts of record in Trophy Club located in Tarrant and Denton counties.

HB 3673 Swinford SPONSOR: Bivins
Relating to feeding certain garbage to swine; providing a criminal penalty.
(COMMITTEE SUBSTITUTE)

HB 3676 Chisum SPONSOR: Haywood
Relating to the board of directors and the taxing authority of the Collingsworth County Underground Water Conservation District.

HB 3677 Christian SPONSOR: Staples
Relating to the composition of the Nacogdoches County Juvenile Board.

HB 3691 Dunnam SPONSOR: Sibley
Relating to the creation, administration, powers, duties, operation, and financing of a hospital district to be known as the West Medical District; authorizing a tax; and granting the authority to issue and refund bonds.

HB 3693 Keffer SPONSOR: Sibley
Relating to the creation, administration, powers, duties, operation, and financing of the Lake Granbury Water Improvement District.

HB 3695 Merritt SPONSOR: Cain
Relating to the creation of an additional county court at law in Gregg County.

HCR 41 Hawley SPONSOR: Armbrister
Designating the city of Kenedy as the Texas Horned Lizard Capital of the World.

HCR 102 Brimer SPONSOR: Harris
Designating the week of May 20-26, 2001, as Make an Impact Week.

HCR 109 Gutierrez SPONSOR: Moncrief
Supporting the establishment of a 2-1-1 information and referral telephone network for Texas.

HCR 174 McCall SPONSOR: Nelson
Expressing the public policy relating to software piracy.

HCR 177 Eiland SPONSOR: Jackson
Designating March 2001 as Dolphin Awareness Month and commending the work of the Texas Marine Mammal Stranding Network.

HCR 200 Goodman SPONSOR: Cain
Commending the Texas Legislative Council for its excellent work on the revised Texas Penal Code, recently selected as the best-written penal code in the United States.

HCR 214 Chavez SPONSOR: Shapleigh
Memorializing Congress to establish a separate Federal Medical Assistance Percentage for the Texas-Mexico border region.

HCR 223 Coleman SPONSOR: Moncrief
Directing the Texas Department of Health to prepare a list of foods and beverages fortified with calcium for use by each primary and secondary school in Texas.

HCR 226 Williams SPONSOR: Bernsen
Memorializing congress to modify the tax code to allow for the issuance of tax-exempt industrial revenue bonds for air pollution control facilities in nonattainment areas.

HCR 227 Lewis, Glenn SPONSOR: Moncrief
Commending Tarrant County Judge Tom Vandergriff on his exemplary public service.

HCR 236 Dutton SPONSOR: West, Royce
Honoring Shelton Smith of Houston for his professional contributions.

HCR 245 Thompson SPONSOR: West, Royce
Honoring Naomi Carrier Grundy and Allen Grundy for their efforts to document the Texas Underground Railroad and directing the Texas Historical Commission and the Texas Parks and Wildlife Department to support continued research on the Underground Railroad.

HCR 248 Smithee SPONSOR: Bivins
Honoring Meals on Wheels of Amarillo.

HCR 250 Turner, Bob SPONSOR: Cain
Commemorating the importance of the JA Ranch bison herd.

HCR 255 Talton SPONSOR: Jackson
In memory of Tillman Bascome McHenry, Sr., of Deer Park.

HCR 256 Gallego SPONSOR: Madla
Memorializing Congress to relocate the U.S. Border Patrol training academy to the southwest Texas border region.

HCR 267 King, Tracy SPONSOR: Wentworth
Honoring the memory of Mary Nan West of San Antonio.

SB 1822 Armbrister
Relating to the creation, administration, powers, duties, operation, and financing of the Hays County Water Control and Improvement District No. 4.

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, May 22, 2001 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 65 Barrientos

Recalling S.B. No. 732 from the governor's office.

Respectfully,

Betty King

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Tuesday, May 22, 2001 - 3

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 152 Brown, Fred SPONSOR: Ogden

Relating to a pilot program to provide for reduced undergraduate tuition during a summer term or session at certain institutions of higher education.

(AMENDED)

HB 176 Luna, Vilma SPONSOR: West, Royce

Relating to the use of certain communication equipment in certain civil and criminal pretrial and trial proceedings.

(AMENDED)

HB 342 McClendon SPONSOR: Van de Putte

Relating to the study of disease management programs for children's asthma.

(COMMITTEE SUBSTITUTE/AMENDED)

HB 588 Garcia SPONSOR: Jackson

Relating to the creation of a DNA record for certain persons convicted of a felony or adjudicated as having engaged in delinquent conduct constituting a felony offense; providing a penalty.

(AMENDED)

HB 653 Najera SPONSOR: Cain

Relating to the prosecution of and punishment for the offense of cruelty to animals.

(AMENDED)

HB 674 Elkins SPONSOR: Lindsay
Relating to stopping, standing, or parking a vehicle on a sidewalk.

HB 691 Thompson SPONSOR: Harris
Relating to income withholding for spousal maintenance; providing a penalty.

HB 820 Giddings SPONSOR: West, Royce
Relating to the number of qualified businesses designated as enterprise projects in certain municipalities.
(AMENDED)

HB 877 Flores SPONSOR: Barrientos
Relating to the benefits provided to the surviving spouse and minor children of certain public employees killed in the line of duty.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1144 Grusendorf SPONSOR: Harris
Relating to public school accountability and to measures to improve proficiency in certain subjects.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1316 Farabee SPONSOR: Moncrief
Relating to the consideration of a trust as property liable for the support of clients at mental health community centers or patients at state hospitals.

HB 1387 Dukes SPONSOR: Barrientos
Relating to the application of the higher education uniform admission policy to graduates of certain special high school programs.

HB 1403 Noriega SPONSOR: Van de Putte
Relating to the eligibility of certain persons to qualify as residents of this state for purposes of higher education tuition or to pay tuition at the rate provided to residents of this state.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1408 Junell SPONSOR: Duncan
Relating to the refund of unearned premiums by an insurer.
(AMENDED)

HB 1445 Turner, Bob SPONSOR: Wentworth
Relating to the authority of municipalities and counties to regulate subdivisions in the extraterritorial jurisdiction of a municipality.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1823 Howard SPONSOR: Armbrister
Relating to damages in an action for interception of communications.

HB 2379 Junell SPONSOR: Duncan
Relating to the authority of certain development corporations to undertake water supply or conservation projects.
(AMENDED)

HB 2382 Thompson SPONSOR: Wentworth
Relating to coverage under a health benefit plan for prescription contraceptive drugs and devices and related services.

HB 2484 Wilson SPONSOR: Armbrister

Relating to the regulation of racing.
(AMENDED)

HB 2510 Chavez SPONSOR: Duncan

Relating to the establishment of diabetes research and screening programs at certain institutions of higher education.
(AMENDED)

HB 2529 Junell SPONSOR: Fraser

Relating to the ratification of the creation of and to the administration, powers, duties, operation, taxing authority, and financing of the Lone Wolf Groundwater Conservation District.

HB 2530 Junell SPONSOR: Ellis, Rodney

Relating to certain prohibitions applicable to a person offering a sweepstakes or operating a video sweepstakes; providing a civil penalty.
(AMENDED)

HB 2544 Naishtat SPONSOR: Barrientos

Relating to the acquisition and disposition of land or another real property interest by a political subdivision.
(AMENDED)

HB 2575 Goolsby SPONSOR: Shapiro

Relating to the total amount of student services fees that may be charged at certain institutions of higher education.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 2676 Truitt SPONSOR: Madla

Relating to the establishment of a domestic violence fatality review team in certain counties.
(AMENDED)

HB 2684 Kuempel SPONSOR: Armbrister

Relating to the authority of the Texas Transportation Commission to acquire certain protected property.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 2766 Delisi SPONSOR: Ellis, Rodney

Relating to repayment assistance for certain education loans owed by certain state attorneys.
(AMENDED)

HB 3136 Hilbert SPONSOR: Jackson

Relating to the statute of limitations for persons seeking damages from injury or loss caused by an error in a survey.
(AMENDED)

HB 3152 Capelo SPONSOR: Brown, J. E. "Buster"

Relating to due process for physicians, dentists, and podiatrists in hospitals.
(AMENDED)

HB 3153 Capelo SPONSOR: Gallegos
Relating to the authority of chiropractors to form certain professional associations.

HB 3181 Danburg SPONSOR: Shapiro
Relating to information concerning registered voters.
(AMENDED)

HB 3209 Uher SPONSOR: Brown, J. E. "Buster"
Relating to a provisional commercial gulf shrimp boat license.
(AMENDED)

HB 3243 Gallego SPONSOR: Madla
Relating to the creation, administration, powers, duties, operation, and financing of the Kinney County Groundwater Conservation District; granting the power of eminent domain and conditionally granting authority to levy property taxes.
(AMENDED)

HB 3383 Davis, Yvonne SPONSOR: Lucio
Relating to the exemption from ad valorem taxation for certain community housing development organizations.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 3441 Gallego SPONSOR: Madla
Relating to special license plates for certain government officials.
(AMENDED)

HB 3498 Thompson SPONSOR: West, Royce
Relating to improving the collection of costs, fees, and fines in criminal cases.

HB 3507 Maxey SPONSOR: Moncrief
Relating to the regulation of dentistry and the provision of dental services.
(AMENDED)

HB 3665 Miller SPONSOR: Sibley
Relating to the creation, administration, powers, duties, operation, and financing of the Middle Trinity Groundwater Conservation District.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 3696 Hinojosa SPONSOR: Lucio
Relating to the creation of the County Court at Law No. 5 of Hidalgo County and the County Criminal Court at Law of Hidalgo County, to redesignating the County Court at Law No. 3 of Hidalgo County as the Probate Court of Hidalgo County, and to the jurisdiction of the statutory county courts in Hidalgo County.
(AMENDED)

HCR 254 Ramsay SPONSOR: Staples
Directing the Department of Protective and Regulatory Services in conjunction with the United Ways of Texas to develop a multiagency and local effort to study issues relating to at-risk youth in nonurban areas.

HCR 296 Farabee
Instructing the enrolling clerk of the house to make corrections in H. B. No. 1072.

SCR 68

Wentworth

Honoring Marshall L. Turner, Jr., on the occasion of his retirement from the United States Census Bureau.

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 115

Senate Conferees: Madla - Chair/Moncrief/Nelson/Sibley/Van de Putte

SB 312

Senate Conferees: Zaffirini - Chair/Barrientos/Bernsen/Brown, J. E. "Buster"/Haywood

SB 516

Senate Conferees: Madla - Chair/Carona/Harris/Lucio/Staples

SB 730

Senate Conferees: Harris - Chair/Armbrister/Ogden/Staples/West, Royce

SB 1210

Senate Conferees: West, Royce - Chair/Bernsen/Duncan/Jackson/Shapiro

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 6

Senate Conferees: Bivins - Chair/Armbrister/Nelson/Shapiro/Staples

Respectfully,

Betty King

Secretary of the Senate

Message No. 4**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Tuesday, May 22, 2001 - 4

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 1268

Dukes

SPONSOR: Jackson

Relating to the appraisal of real property securing a mortgage loan; providing a criminal penalty.

HB 1676 Burnam SPONSOR: Van de Putte
Relating to health benefit plan coverage for certain benefits related to brain injury.

HB 1692 Chisum SPONSOR: Bivins
Relating to customer protections applicable to certain electric utilities.
(COMMITTEE SUBSTITUTE)

HB 1880 Swinford SPONSOR: Duncan
Relating to the creation, operation, and administration of agricultural development districts and granting the power of eminent domain and the authority to issue bonds.

HB 2601 Coleman SPONSOR: Gallegos
Relating to the ad valorem taxation of certain possessory interests in certain municipal property open to the public.
(COMMITTEE SUBSTITUTE)

HB 2994 Lewis, Ron SPONSOR: Brown, J. E. "Buster"
Relating to the approval of certain contracts of special districts.

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 189
Senate Conferees: Lindsay - Chair/Bivins/Nelson/Shapiro/Van de Putte

SB 536
Senate Conferees: Ellis, Rodney - Chair/Armbrister/Bivins/Ogden/Whitmire

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 606
Senate Conferees: Nelson - Chair/Fraser/Harris/Lucio/Zaffirini

HB 915
Senate Conferees: Moncrief - Chair/Carona/Harris/Nelson/Sibley

HB 1094
Senate Conferees: Moncrief - Chair/Ellis, Rodney/Harris/Shapleigh/Sibley

HB 1166
Senate Conferees: Carona - Chair/Fraser/Jackson/Lucio/Van de Putte

HB 1641
Senate Conferees: Barrientos - Chair/Bivins/Brown, J. E. "Buster"/Truan/Zaffirini

Respectfully,

Betty King
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, May 22, 2001 - 5

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 374 Wohlgemuth SPONSOR: Shapiro

Relating to the assessment of court costs for certain offenses to finance child health and safety programs in municipalities.

HB 3655 Kolkhorst SPONSOR: Ogden

Relating to the creation, administration, powers, duties, operation, and financing of the Bluebonnet Groundwater Conservation District.

(COMMITTEE SUBSTITUTE)

HB 3694 Solis, Jim SPONSOR: Lucio

Relating to an annual salary supplement paid by Cameron County to the local administrative district judge in Cameron County.

HCR 118 Crownover, Myra SPONSOR: Haywood

In honor of Greg Brown for his receipt of a Dallas 100 Award.

Respectfully,

Betty King

Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, May 22, 2001 - 6

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 370 Hinojosa SPONSOR: Lucio

Relating to the fees imposed by certain counties for the preservation, restoration, and management of certain county records.

HB 1748 Giddings SPONSOR: Barrientos
Relating to the creation of an unsolved crimes investigation team within the Department of Public Safety of the State of Texas.

HB 1839 Junell SPONSOR: Ellis, Rodney
Relating to research and excellence funding at certain institutions of higher education.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 2134 Chisum SPONSOR: Brown, J. E. "Buster"
Relating to the regulation of motor vehicle emissions; providing penalties.

HB 2888 Truitt SPONSOR: Shapiro
Relating to limitations on the issuance of tax-supported bonds by school districts.

HB 2987 Deshotel SPONSOR: Van de Putte
Relating to an exemption from sex offender registration for certain juvenile and adult offenders.

HB 2989 Gutierrez SPONSOR: Van de Putte
Relating to establishing an acanthosis nigricans screening program in certain public and private schools.

HB 3613 Martinez Fischer SPONSOR: West, Royce
Relating to the sentencing of certain Class C habitual offenders.

HJR 44 Flores SPONSOR: Lucio
Proposing a constitutional amendment authorizing the legislature to authorize taxing units other than school districts to exempt certain travel trailers from ad valorem taxation.

SCR 69 Ellis, Rodney
Requesting to return S. B. No. 1057 to the senate for further consideration.
Respectfully,

Betty King
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 21

Transportation - **SB 1129**

ENROLLED

May 21 - **HB 156, HB 323, HB 1566, HB 2586, HB 2839, HCR 92**

SENT TO THE GOVERNOR

May 21 - HB 102, HB 177, HB 445, HB 459, HB 490, HB 495, HB 535, HB 560, HB 651, HB 663, HB 815, HB 969, HB 978, HB 1011, HB 1015, HB 1027, HB 1037, HB 1038, HB 1053, HB 1073, HB 1088, HB 1091, HB 1099, HB 1110, HB 1113, HB 1154, HB 1187, HB 1196, HB 1220, HB 1254, HB 1267, HB 1307, HB 1415, HB 1420, HB 1469, HB 1505, HB 1515, HB 1535, HB 1591, HB 1651, HB 1658, HB 1680, HB 1681, HB 1683, HB 1688, HB 1765, HB 1909, HB 1941, HB 1995, HB 1999, HB 2002, HB 2029, HB 2032, HB 2054, HB 2091, HB 2092, HB 2103, HB 2112, HB 2143, HB 2185, HB 2190, HB 2246, HB 2260, HB 2278, HB 2301, HB 2312, HB 2336, HB 2344, HB 2349, HB 2362, HB 2367, HB 2459, HB 2494, HB 2495, HB 2518, HB 2550, HB 2580, HB 2604, HB 2616, HB 2628, HB 2677, HB 2690, HB 2746, HB 2828, HB 2852, HB 2853, HB 2869, HB 2882, HB 2947, HB 2959, HB 3015, HB 3028, HB 3034, HB 3055, HB 3096, HB 3134, HB 3150, HB 3193, HB 3258, HB 3286, HB 3309, HB 3356, HB 3403, HB 3413, HB 3414, HB 3421, HB 3524, HB 3558, HB 3626, HB 3637, HB 3640, HB 3642, HB 3649, HB 3662, HB 3666, HB 3667, HB 3674, HB 3678, HCR 38, HCR 104, HCR 203, HCR 239, HCR 283, HCR 285, HCR 286

SENT TO THE SECRETARY OF THE STATE

May 21 - HJR 2

SIGNED BY THE GOVERNOR

May 21 - HB 198, HB 244, HB 402, HB 482, HB 506, HB 767, HB 768, HB 780, HB 1175, HB 1478, HB 1586, HB 1737, HB 1788, HB 2437, HB 2840, HB 2908, HB 3335, HCR 8